MISSOURI BAR ASSOCIATION

1917

REPORT

OF THE

PROCEEDINGS

OF THE

THIRTY-FIFTH ANNUAL MEETING

OF THE

Missouri Bar Association

HELD AT

KANSAS CITY, MISSOURI

SEPTEMBER, 27, 28 and 29
1917

AND

SPECIAL MEETING

HELD AT

ST. LOUIS, MISSOURI

DECEMBER 28, 1917

OFFICERS AND COMMITTEES.

JAMES C. JONES.....President
Third National Bank Bldg., St. Louis.

EDWARD A. HAID.....Secretary
Third National Bank Bldg., St. Louis.

EDWARD W. LAKE.....Assistant Secretary
Third National Bank Bldg., St. Louis.

DELL D. DUTTON.....Treasurer
Commerce Bldg., Kansas City.

EXECUTIVE COMMITTEE.

JAMES C. JONES, St. Louis, Chairman.

JAMES H. HARKLESS, Kansas City. J. M. LASHLY, St. Louis.
A. STANFORD LYON, Kansas City. DELL D. DUTTON, Kansas City.

CONTENTS.

CONTENTS—Continued.

COUNCIL.

1. F. H. McCULLOUGH, Edina.
2. JOHN T. GOSE, Shelbina.
3. O. PLATT HUBBLE, Trenton.
6. VINTON PIKE, St. Joseph.
7. NEWLAN CONKLIN, Carrollton.
8. A. A. O'HALLORAN, St. Louis.
9. M. J. LILLY, Moberly.
10. E. L. ALFORD, Perry.
11. W. B. M. COOK, Montgomery City.
12. ROY W. RUCKER, Keytesville.
13. R. T. RAILEY, St. Louis Co.
14. A. T. DUMM, Jefferson City.
15. VIRGIL V. HUFF, Marshall.
16. W. O. THOMAS, Kansas City.
17. A. A. WHITSITT, Harrisonville.
19. ROBERT LAMAR, Houston.
24. CHAS. L. HENSON, Mt. Vernon.
25. FRANK L. FORLOW, Webb City.
28. W. C. RUSSELL, Charleston.
29. P. A. PARKS, Clinton.
30. HENRY L. LAMM, Sedalia.
33. L. M. HENSON, Poplar Bluff.
34. J. P. McBAINE, Columbia.
35. J. H. HALEY, Bowling Green.
36. F. S. HUDSON, Chillicothe.
38. ROBERT L. WARD, Caruthersville.

COMMITTEE ON AMENDMENTS, JUDICIARY AND PROCEDURE.

DAVID H. HARRIS, Fulton, Chairman.

FRANK P. SEBREE, Kansas City.
E. L. ALFORD, Perry.
HUGO MUENCH, St. Louis.
S. C. MAJOR, Fayette.

COMMITTEE ON LEGAL EDUCATION AND ADMISSION TO BAR.

C. B. ALLEN, St. Louis, Chairman.

HENRY D. ASHLEY, Kansas City.
ORVILLE M. BARNETT, Columbia.
R. A. ANTHONY, Fredericktown.
R. L. GOODE, St. Louis.

COMMITTEE ON BAR ASSOCIATIONS.

VINTON PIKE, St. Joseph, Chairman.

GEORGE A. MAHAN, Hannibal.
LEE MONTGOMERY, Sedalia.
JAMES H. HARKLESS, Kansas City.
O'NEILL RYAN, St. Louis.

COMMITTEE ON LEGAL PUBLICATIONS.

W. O. THOMAS, Kansas City, Chairman.

M. O. HUDSON, Columbia.
ROBERT LAMAR, Houston.
DELL D. DUTTON, Kansas City.
EDW. A. HAID, St. Louis.

COMMITTEE ON GRIEVANCES AND LEGAL ETHICS.

C. W. GERMAN, Kansas City, Chairman.

S. O. HUNTER, Moberly.
BENJAMIN A. WOOD, St. Louis.
JOHN E. DOLMAN, St. Joseph.
F. M. MCDAVID, Springfield.

COMMITTEE ON UNIFORM STATE LAWS.

W. H. H. PIATT, Kansas City, Chairman.

W. C. RUSSELL, Charleston.
EUGENE McQUILLIN, St. Louis.
EDWIN A. KRAUTHOFF, Kansas City.
FRANK L. FORLOW, Webb City.

COMMITTEE ON LEGAL BIOGRAPHY.

SHEPARD BARCLAY, St. Louis, Chairman.

F. L. SCHOFIELD, Hannibal.
JOHN F. PHILLIPS, Kansas City.
J. C. KISKADDON, Clayton.
D. C. ALLEN, Liberty.

WAR COMMITTEE.

O'NEILL RYAN, Chairman, St. Louis.

Adair County		
Andrew County	LLOYD W. BOOHER	Savannah.
Audrain County	W. W. FRY, JR.	Mexico.
Atchison County	JOHN C. HUNT	Rockport.
Barry County	D. S. MAYHEW	Monett.
Bates County	THOMAS J. SMITH	Butler.
Barton County	THOS. W. MARTIN	Lamar.
Benton County	WILBUR S. JACKSON	Warsaw.
Bollinger County	WM. M. MORGAN	Marble Hill.
Boone County	FRANK G. HARRIS	Columbia.
Buchanan County		
Butler County	J. C. SHEPPARD	Doniphan.
Caldwell County	D. E. ADAMS	Hamilton.
Callaway County	JOHN R. BAKER	Fulton.
Camden County	S. C. ROACH	Linn Creek.
Cape Girardeau	R. B. OLIVER	Cape Girardeau.
Carroll County	NEWLAN CONKLING	Carrollton.
Carter County	GARRY H. YOUNT	Van Buren.
Cass County	ALLEN B. GLENN	Harrisonville.
Cedar County		
Chariton County	RAY W. RUCKER	Keytesville.
Christian County	JOHN T. MOORE	Ozark.
Clark County	T. L. MONTGOMERY	Kahoka.
Clay County	RALPH HUGHES	Liberty.
Clinton County	JOHN C. CARR	Cameron.
Cole County	A. T. DUMM	Jefferson City.
Cooper County	ROY D. WILLIAMS	Boonville.

Crawford County	Wm. R. Lay	Steelville.
Dade County	Ben M. Neale	Greenfield.
Dallas County		
Daviess County		
DeKalb County	R. A. Hewitt	Maysville.
Dent County	L. T. McGee	Salem.
Douglas County	A. H. Buchanan	Ava.
Dunklin County	O. Zimmerman	Kennett.
Franklin County	James Booth	Pacific.
Gasconade County	W. J. Ellis	Herman.
Gentry County	D. D. Reeves	Albany.
Greene County	F. M. McDavid	Springfield.
Grundy County	Platt Hubbell	Trenton.
Harrison County	Geo. W. Wanamaker	Bethany.
Henry County	Charles A. Calvird	Clinton.
Hickory County		
Holt County	S. F. O'Fallon	Oregon.
Howard County	S. C. Major	Fayette.
Howell County	W. N. Evans	West Plains.
Iron County	Wm. R. Edgar	Ironton.
Jackson County	John A. See	Independence.
Jasper County	Allen McReynolds	Carthage.
Jefferson County		
Johnson County	W. E. Suddath	
Miller County		Warrensburg.
Knox County		
Laclede County	W. C. Mayfield	Lebanon.
Lafayette County	Hy. C. Wallace	Lexington.
Lawrence County	J. M. McPherson	Mt. Vernon.
Lewis County	E. A. Dowell	LaBelle.
Lincoln County	W. A. Dudley	Troy.
Linn County	A. L. Pratt	Linneus.
Livingston County	Arch. B. Davis	Chillicothe.
McDonald County		
Macon County	Nat M. Shelton	Macon.
Madison County	R. A. Anthony	Fredericktown.
Maries County	Leslie B. Hutchison	Vienna.
Marion County	David H. Eby	Hannibal.
Mercer County	E. C. Obton	Princeton.
Mississippi County	W. C. Russell	Charleston.
Moniteau County	J. W. Hunter	California.
Monroe County	Penn Brace	Paris.
Montgomery County	Wm. C. Hughes	Montgomery City.
Morgan County	Saml. Daniels	Versailles.
New Madrid County	H. C. Riley	New Madrid.
Newton County	Leslie D. Rice	Neosho.
Nodaway County	M. E. Ford	Maryville.
Oregon County		
Osage County		
Ozark County		
Pemiscot County	Robert L. Ward	Caruthersville.
Perry County	Samuel Bond	Perryville.
Pettis County	Lee Montgomery	Sedalia.
Phelps County	R. H. Rucker	Rolla.
Pike County	Eugene Pearson	Louisiana.
Platte County	James H. Hull	Platte City.
Polk County	H. Pufahl	Bolivar.
Pulaski County	H. O. Eldredge	Waynesville.

Putnam County	N. A. Franklin	Unionville.
Ralls County	E. L. Alford	Perry.
Randolph County	S. O. Hunter	Moberly.
Ray County	Albert M. Clark	Richmond.
Reynolds County	C. M. Buford	Centerville.
Ripley County	Chas. O. Barth	Doniphan.
St. Charles County	C. W. Wilson	St. Charles.
St. Clair County	Waldo P. Johnson	Osceola.
St. Francois County	J. B. Burks	Farmington.
Ste. Genevieve County	C. J. Stanton	Ste. Genevieve.
St. Louis County	Albert B. Chandler	Kirkwood.
Saline County	V. V. Huff	Marshall.
Schuyler County	Earle E. Fogle	Lancaster.
Scotland County	J. E. Luther	Memphis.
Scott County	A. De Reign	Benton.
Shannon County	S. A. Cunningham	Eminence.
Shelby County	Harry J. Libby	Shelbina.
Stoddard County	Ralph Wammack	Bloomfield.
Stone County	J. Wm. Cook	Crane.
Sullivan County	J. W. Clapp	Milan.
Taney County	R. C. Ford	Forsyth.
Texas County	Robert Lamar	Houston.
Vernon County	W. M. Bowker	Nevada.
Warren County	W. L. Morsey	Warrenton.
Washington County	M. E. Rhodes	Potosi.
Wayne County	D. N. Holladay	Greenville.
Webster County	Chas. W. Dickey	Marshfield.
Worth County	A. W. Kelso	Grant City.
Wright County	J. W. Jackson	Hartville.
Kansas City	James H. Harkless	Grand Ave. Temple.

OFFICERS OF

THE MISSOURI BAR ASSOCIATION

FROM 1880 TO 1917

President.	*Secretary.*	*Treasurer.*
	1880	
WILLARD P. HALL.	W. H. H. RUSSELL.	M. T. C. WILLIAMS.
	1881	
HENRY HITCHCOCK.	W. H. H. RUSSELL.	WM. C. MARSHALL.
	1882	
J. H. SHANKLIN.	JAMES E. WITHROW.	WM. C. MARSHALL.
	1883	
JOHN C. GAGE.	JAMES E. WITHROW.	WM. C. MARSHALL.
	1884	
T. C. REYNOLDS.	JAMES E. WITHROW.	WM. C. MARSHALL.
	1885	
GEORGE W. MCCRARY.	JNO. MONTGOMERY.	WM. C. MARSHALL.
	1886	
CHARLES G. BURTON.	JNO. MONTGOMERY.	WM. C. MARSHALL.
	1887	
JOHN F. PHILLIPS.	W. A. ALDERSON.	WM. C. MARSHALL.
	1888	
JAMES B. GANTT.	W. A. ALDERSON.	WM. C. MARSHALL.
	1889	
GEORGE A. MADILL.	C. CLAFLIN ALLEN.	WM. C. MARSHALL.
	1890	
L. C. KRAUTHOFF.	F. M. ESTES.	WM. C. MARSHALL.
	1891	
H. S. PRIEST.	R. F. WALKER.	WM. C. MARSHALL.
	1892	
GEO. B. MCFARLANE.	W. A. WOOD.	WM. C. MARSHALL.
	1893	
ALEXANDER MARTIN.	W. A. WOOD.	WM. C. MARSHALL.
	1894	
HENRY C. MCDOUGAL.	W. A. WOOD.	WM. C. MARSHALL.
	1895	
WM. C. MARSHALL.	SELDEN P. SPENCER.	WM. B. TEASDALE.
	No Meetings 1896-1897	
	1898	
SELDEN P. SPENCER.	J. J. RUSSELL.	W. B. TEASDALE.

President.	*Secretary.*	*Treasurer.*
	1899	
George Robertson.	J. J. Russell.	W. B. Teasdale.
	1900	
J. J. Russell.	C. F. Gallenkamp.	W. B. Teasdale.
	1901	
W. B. Teasdale.	C. F. Gallenkamp.	Adiel Sherwood.
	1902	
W. M. Williams.	C. F. Gallenkamp.	Adiel Sherwood.
	1903	
F. L. Schofield.	R. F. Walker.	Adiel Sherwood.
	1904	
John D. Lawson.	R. F. Walker.	Adiel Sherwood.
	1905	
Robert F. Walker.	R. E. Ball.	Lee Montgomery.
	1906	
Sanford B. Ladd.	R. E. Ball.	Lee Montgomery.
	1907	
R. T. Railey.	Lee Montgomery.	R. E. Ball.
	1908	
F. N. Judson.	Lee Montgomery.	R. E. Ball.
	1909	
J. W. Halliburton.	Lee Montgomery.	R. E. Ball.
	1910	
J. J. Vineyard.	Lee Montgomery.	E. M. Grossman.
	1911	
Morton Jourdan.	John G. Schaich.	E. M. Grossman.
	1912	
Ralph F. Lozier.	John G. Schaich.	Franklin Miller.
	1913	
Edw. J. White.	George H. Daniel.	Franklin Miller.
	1914	
Henry Lamm.	George H. Daniel.	Eugene Blodgett.
	1915	
Frank M. McDavid.	George H. Daniel.	A. Stanford Lyon.
	1916	
James H. Harkless.	George H. Daniel.	A. Stanford Lyon.
	1917	
James C. Jones.	George H. Daniel.	Dell D. Dutton.

OFFICERS OF AMERICAN BAR ASSOCIATION
1917-1918

PRESIDENT
WALTER GEORGE SMITH, Philadelphia

SECRETARY
GEORGE WHITELOCK, Baltimore, Md.

TREASURER
FREDERICK E. WADHAMS, 78 Chapel Street, Albany, N. Y.

ASSISTANT SECRETARIES

W. THOMAS KEMP, 1416 Munsey Building, Baltimore, Md.
GAYLORD LEE CLARK, 1416 Munsey Building, Baltimore, Md.

EXECUTIVE COMMITTEE

EX-OFFICIO
THE PRESIDENT
THE SECRETARY
THE TREASURER
GEORGE SUTHERLAND,
Ex-President,
Salt Lake City, Utah
R. E. LEE SAUER,
Chairman General Council

GEORGE T. PAGE, Peoria, Ill.
T. A. HAMMOND, Atlanta, Ga.
U. S. G. CHERRY, Sioux Falls, S. D.
CHARLES N. POTTER, Cheyenne, Wyo.
JOHN LOWELL, Boston, Mass.
CHARLES BLOOD SMITH, Topeka, Kan.
ASHLEY COCKRILL, Little Rock, Ark.
CHARLES MADDENS TERRY, New York, N. Y.

GENERAL COUNCIL FROM MISSOURI

W. L. STURDEVANT, St. Louis
JAMES H. HARKLESS, Kansas City

LOCAL COUNCIL FROM MISSOURI

JAMES H. HARKLESS, Kansas City
VITAL W. GARESCHE, St. Louis
EUGENE MCQUILLIN, St. Louis
CLARENCE T. CASE, St. Louis
THOMAS H. REYNOLDS, Vice-President, Kansas City

OFFICERS OF BAR ASSOCIATION OF NINETEENTH JUDICIAL CIRCUIT

1917-1918

C. C. BLAND.....President
Rolla
HARRY CLYMER.....Secretary
Steelville.
FRED L. SCOTT.....Treasurer
Waynesville

OFFICERS OF THE BAR ASSOCIATION OF THE TWENTY-FIRST JUDICIAL CIRCUIT

1917-1918

E. M. DEARING.....President
Potosi
J. B. DANIELS.....Vice-President
Piedmont
C. T. JARVIS.....Secretary-Treasurer
De Soto

OFFICERS OF BOONE COUNTY BAR ASSOCIATION

1917-1918

J. P. MCBAIN.....President
Columbia
E. C. ANDERSON.....Vice-President
Columbia
GEORGE S. STARRETT.....Secretary
Columbia
M. R. CONLEY.....Treasurer
Columbia

OFFICERS OF THE CAPE GIRARDEAU COUNTY BAR ASSOCIATION

1917-1918

WILSON CRAMER.....President
Jackson
EDWARD D. HAYS.....Vice-President
Cape Girardeau
B. C. HARDESTY.....Treasurer
Cape Girardeau
RUSH LUNBAUGH.....Secretary
Cape Girardeau

OFFICERS OF CLAY COUNTY BAR ASSOCIATION

1917-1918

RALPH HUGHES.....President
Liberty
W. A. CRAVEN.....Vice-President
Excelsior Springs
JAMES S. SIMBALL.....Secretary-Treasurer
Liberty

OFFICERS OF CLINTON COUNTY BAR ASSOCIATION

1918-1919

W. S. HERNDON.....President
JOHN C. CARR.....Secretary-Treasurer

OFFICERS OF HOWARD COUNTY BAR ASSOCIATION

1918-1919

SAMUEL C. MAJOR.....President
Fayette
J. H. DENNY.....Vice-President
Glasgow
R. K. BRIDGES.....Secretary
Fayette
LIONEL DAVIS.....Treasurer
Fayette

OFFICERS OF THE JASPER COUNTY BAR ASSOCIATION

1917-1918

J. W. MCINTIRE.....President
Joplin
FRANK L. FORLOW.....Vice-President
Webb City
A. G. YOUNG.....Treasurer
Webb City
H. W. BLAIR.....Secretary
Carthage

OFFICERS OF KANSAS CITY BAR ASSOCIATION
1917-1918

HENRY S. CONRAD.....President
Dwight Building
ELLISON A. NEEL.....Vice-President
Scarritt Building
DELL D. DUTTON.....Secretary
Scarritt Building
JOHN H. LATHROP.....Treasurer
First National Bank Building

OFFICERS OF LIVINGSTON COUNTY BAR ASSOCIATION
1917-1918

B. B. GILL.....President
Chillicothe
NOLAN M. CHAPMAN.....Secretary
Chillicothe
JOSEPH D. STEWART.....Treasurer
Chillicothe

OFFICERS OF MADISON COUNTY BAR ASSOCIATION
1917-1918

DAVID M. TESREAU.....President
ROBT. A. ANTHONY.....Secretary and Treasurer
Fredericktown

OFFICERS OF MONITEAU COUNTY BAR ASSOCIATION
1917-1918

L. F. WOOD.....President
California
J. M. WILLIAMS.....Vice-President
California
L. P. EMBRY.....Secretary
California

OFFICERS OF THE PETTIS COUNTY BAR ASSOCIATION

1917-1918

CHARLES E. YEATER.....President
CARL S. HOFFMAN.....Secretary-Treasurer

OFFICERS OF PEMISCOT COUNTY BAR ASSOCIATION

1917-1918

R. L. WARD.....President
Caruthersville
N. C. HAWKINS.....Secretary
Caruthersville

OFFICERS OF PIKE COUNTY BAR ASSOCIATION

1918-1919

HON. DAVID A. BALL.....President
HON. W. O. GRAY.....Vice-President
GUY M. WOOD.....Secretary
EUGENE PEARSON.....Treasurer

OFFICERS OF PLATTE COUNTY BAR ASSOCIATION

1917-1918

NORTON B. ANDERSON.....President
Platte City
FRANK SETTLE.....Secretary
Platte City

OFFICERS OF RIPLEY COUNTY BAR ASSOCIATION

1917-1918

CHARLES O. BARTH.....President
Doniphan
CHARLES L. FERGUSON.....Secretary
Doniphan

OFFICERS OF REYNOLDS COUNTY BAR ASSOCIATION

1917-1918

R. J. JANUARY.....President
Centerville
C. R. WADLOW.....Secretary
Centerville

OFFICERS OF ST. FRANCOIS COUNTY BAR ASSOCIATION

1917-1918

E. A. ROZIER.....President
Farmington
G. N. FAKE.....Secretary
Bonne Terre

OFFICERS OF ST. JOSEPH BAR ASSOCIATION

1917-1918

VINTON PIKE .....President
ORESTES MITCHELL.....First Vice-President
H. K. WHITE.....Second Vice-President
JOHN S. BOYER.....Secretary
RICHARD L. DOUGLAS.....Treasurer

OFFICERS OF ST. LOUIS BAR ASSOCIATION

1917-1918

EUGENE MCQUILLIN.....President
Boatmen's Bank Building
W. L. STURDEVANT.....Vice-President
Central National Bank Building
DANIEL G. TAYLOR.....Vice-President
Boatmen's Bank Building
CHARLES P. WILLIAMS.....Vice-President
Security Building
WILLIAM F. FAHEY.....Secretary
Third National Bank Building
FRANK B. COLEMAN.....Treasurer
Carleton Building

OFFICERS OF ST. LOUIS COUNTY BAR ASSOCIATION

1917-1918

J. C. KISKADDON.....President
Clayton
T. K. SKINKER.....Vice-President
St. Louis
JOSEPH C. MCATEE.....Secretary
Clayton
JULIUS R. NOLTE.....Treasurer
Clayton

OFFICERS OF THE SEDALIA BAR ASSOCIATION

1917-1918

H. T. WILLIAMS.....President
GEORGE W. BARNETT.....Vice-President
LEE MONTGOMERY.....Secretary

OFFICERS OF SPRINGFIELD BAR ASSOCIATION

1917-1918

E. A. BARBOUR.....President
DAN M. NEE.....Secretary
MCLAIN JONES.....Treasurer

OFFICERS OF STODDARD COUNTY BAR ASSOCIATION

1918-1919

N. A. MOZLEY.....President
Bloomfield
K. C. SPENSE.....Vice-President
Bloomfield
H. S. GREEN.....Secretary-Treasurer
Bloomfield

OFFICERS OF STONE COUNTY BAR ASSOCIATION

1917-1918

GEO. W. THORNBERRY.....President
Galena
RUFE SCOTT.....Vice-President
Galena
J. WM. COOK.....Secretary-Treasurer
Crane

OFFICERS OF TANEY COUNTY BAR ASSOCIATION

1918-1919

C. B. SHARP.....President
R. C. FORD.....Vice-President
W. R. EVANS.....Secretary
CHARLES H. GROOM.....Treasurer

OFFICERS OF TEXAS COUNTY BAR ASSOCIATION

1917-1918

ROBERT LAMAR.....President
Houston
WILLIAM L. HIETT.....Vice-President
Houston
DAVID E. IMPEY.....Secretary
Houston

OFFICERS OF VERNON COUNTY BAR ASSOCIATION

1917-1918

M. T. JANUARY.....President
Nevada
HOMER M. POAGE.....Secretary
Nevada

OFFICERS OF WARREN COUNTY BAR ASSOCIATION

1917-1918

W. L. Morsey.....President
Warrenton
T. W. Hukriede.....Vice-President
Warrenton
Emil Roehrig.....Secretary
Warrenton
J. W. Delventhal.....Treasurer
Warrenton

OFFICERS OF THE WASHINGTON COUNTY BAR ASSOCIATION

1917-1918

E. M. Dearing.....President
Potosi
P. M. Banta.....Secretary
Potosi

CONSTITUTION

NAME AND OBJECT.

ARTICLE 1. This Association shall be known as "The Missouri Bar Association." Its object shall be to advance the science of jurisprudence, promote the administration of justice, uphold the honor of the profession of the law, encourage cordial intercourse among the members of the Missouri bar, encourage the formation of local bar associations throughout the State, articulate such local associations with this Association, and encourage the articulation of State bar associations with the national or American Bar Association.

QUALIFICATIONS FOR MEMBERSHIP.

ARTICLE 2. Any person shall be eligible to active membership in this Association who is a member in good standing of the bar of Missouri. Applications for membership shall be in writing, signed by the applicant, and shall be accompanied by $5.00, dues for the current year, and such application shall be approved by the Council and reported to the next meeting of the Association, and when such report is approved at such meeting such applicant shall become a member of the Association.

Honorary members may be admitted at the discretion of the Association at any meeting thereof. Honorary members shall have all of the privileges of active members except that they shall not vote or be entitled to hold office.

All members of the bar and bench of this State now members of this Association, active or honorary, are hereby declared to be active members of this Association on payment now or heretofore or hereafter, of dues for the current year.

LOCAL BAR ASSOCIATIONS.

ARTICLE 3. Each local bar association in the State shall be entitled to send to all meetings of this Association one representative for every twenty-five members, or fractional part thereof, in such local association. Such representatives shall be elected by the members of the local association, if the constitution or by-laws of the local association so provide, or in default of such provision, or in case of failure to elect, the President of such local bar association or Chairman of a meeting of the local bar may appoint such representatives. Such representatives shall have the powers of members during the session. Each such representative, if not already a member of this Association, shall pay the same dues as members, and upon such payment and the making of written application for membership, shall become an active member when his application has been approved as provided in Article 2.

Nothing in this Article, however, shall be construed as discouraging the attendance or abridging or limiting the rights or privileges of individual members of the Association.

OFFICERS AND COMMITTEES.

ARTICLE 4. The following officers shall be elected at each annual meeting for the year ensuing: a President, three Vice-Presidents, a Treasurer, a Council, consisting of one member from each judicial circuit (to be selected by the members and representatives from such circuit present in person at the annual meeting of the Association), which shall be a standing committee on nominations for all officers except the Council; an Executive Committee, to be composed of the President, as Chairman, and Treasurer, together with three members to be chosen by the Association, for terms of one, two and three years, respectively, and their successors shall be appointed for three years each. All vacancies in the Executive Committee shall be filled by the remaining members of the Committee.

The Secretary of the Association shall be appointed by, and hold office during the pleasure of, the President.

The following standing committees shall be appointed by the President immediately upon the adoption of this amended Constitution, and shall consist of five members each; one member of each of which committees shall be appointed for one year, two for two years, and two for three years, and thereafter their successors shall be appointed for terms of three years each.

1. On Amendments, Judiciary, and Procedure.
2. On Legal Education and Admission to Bar.
3. On Bar Associations.
4. On Legal Publications.
5. On Grievances and Legal Ethics.
6. On Uniform State Laws.
7. On Legal Biography.

Any of the members of such committees may be removed and vacancies filled by the Executive Committee.

Each of said committees shall present a written report at the annual sessions of the Association, embodying their recommendations for the action of the Association.

A majority of the members of any committee who may be present at any meeting of such committee, or eleven members of the Council, present at any Council meeting, shall constitute a quorum of their respective bodies.

No member of the Council shall be represented or vote by proxy.

CANON OF ETHICS.

ARTICLE 5. This Association hereby adopts the Canon of Ethics adopted by the American Bar Association at its thirty-first annual meeting, as contained in Volume XXXVIII of the reports of the American Bar Association.

BY-LAWS.

ARTICLE 6. By-Laws may be adopted or amended at any annual or special meeting of the Association by a majority of the members present.

DUES.

ARTICLE 7. Each member shall pay $5.00 to the Association, as annual dues, and no person shall be qualified to exercise any privileges of membership who is in default. Such dues shall be payable, and the payment thereof enforced, as may be provided for by the By-Laws.

ANNUAL ADDRESS.

ARTICLE 8. The President shall open each annual meeting of the Association with an address in which he shall communicate any proposed amendments to the Constitution of the State, the most noteworthy changes in the statute law on points of general interest made in his and other States and by Congress during the preceding year, or such other matters of current interest as he may deem of value to the Association.

ANNUAL MEETING.

ARTICLE 9. The Association shall meet annually, at such time and place as the Executive Committee may select, and those present at such meeting shall constitute a quorum, and twenty-five members present at any special meeting shall constitute a quorum. It shall be the duty of the Executive Committee to select a time and place at least two months prior to such a meeting, and to require the Secretary to notify every member thereof, by mail, within one week after such selection.

Special meetings of the Association may be called by the President or the Executive Committee; provided, that notice of such special meeting and its purpose be sent by mail to each member of the Association at least ten days prior to the date of such meeting.

AMENDMENTS.

ARTICLE 10. This Constitution may be altered or amended by a three-fourths vote of the members present at any annual meeting, but no change shall be made at any such meeting at which less than twenty-five members are present.

BY-LAWS

MEETING OF THE ASSOCIATION.

I. The Executive Committee shall prepare a programme for each annual meeting.

II. The order of exercises at the annual meeting, unless otherwise directed by the Executive Committee, shall be as follows:

(a) Opening address by President.
(b) Nomination and election of members.
(c) Election of General Council.
(d) Report of Secretary and Treasurer.
(e) Report of Executive Committee.
(f) Report of Standing Committees in the order named in Article 4 of the Constitution.
(g) Report of Special Committees.
(h) Nomination of Officers.
(i) Miscellaneous business.
(j) Election of Officers.

III. No person shall speak more than ten minutes at a time or more than twice on one subject.

A stenographer shall be employed by the President at each annual meeting.

IV. All papers read before the Association shall be lodged with the Secretary. The annual address of the President, the reports of the committees and all proceedings of the annual meeting shall be printed; but no other address made or paper presented shall be printed, except by order of the Executive Committee.

OFFICERS AND COMMITTEES.

V. The term of office of all officers, including the Council, elected at an annual meeting, shall commence at the adjournment of such meeting, and continue until their successors are elected or appointed in the manner provided by the Constitution or these by-laws.

VI. It shall be the duty of each committee to file its report with the Secretary thirty days before each annual meeting and it shall be the duty of the Secretary to print such of said reports as the Executive Committee shall direct.

VII. The Council and Standing Committees shall meet on the first day of each annual meeting, at the place where the same is to be held, at such hour as their respective chairmen shall appoint.

VIII. Special meetings of any committees shall be held at such times and place as the chairman or a majority of the members thereof may appoint. Reasonable notice shall be given by him to each member of his committee by mail.

ANNUAL DUES.

IX. The annual dues shall be payable in advance at the annual meeting each year. If any member makes default in the payment of his annual dues, the Treasurer shall give such delinquent notice of this by-law by circular, mailed to his address, as shown by the roll of members in the office of the Secretary, at least thirty days before the next annual meeting, and if any delinquent shall fail to pay such dues before the commencement of the annual meeting next after such default, he shall stand suspended and shall not thereafter be qualified to exercise any privileges of membership until all arrearages shall be fully paid; provided, that while and so long as any member is in the service of the Army or Navy of the United States or its allies, the dues of such member shall be waived. No person who has heretofore forfeited his membership in this Association, by reason of non-payment of dues, shall be nominated for membership by the Council until all past arrearages of dues that accrued prior to his suspension have been fully paid, unless otherwise specially ordered by the Executive Committee. The names of all who have heretofore forfeited their membership by non-payment of dues, and of all members who shall be suspended for non-payment of dues, by virtue of this by-law, and who shall continue to neglect to pay such dues until the proceedings of the annual meeting next after such suspension have been compiled for publication, shall be, by the Treasurer, dropped from the published list of members of the Association.

Any member of this Association against whom no charges are pending, and whose annual dues are fully paid, may terminate his membership by filing with the Executive Committee a written resignation, and said Committee shall report the names of the members who have so resigned at the next annual meeting.

At any time the Executive Committee may reinstate any person whose name has been dropped from the roll of membership, or relieve any member from the payment of delinquent dues, upon such terms as to the Committee may seem just.

X. At any of the meetings of the Association members of the Bar who are not members of the Association may be admitted to attend the sessions of the Association, in the discretion of the President.

ANNUAL DINNER.

XI. The Executive Committee shall provide at each annual meeting a suitable reception and dinner, to be given at the expense of the Association.

LEGAL BIOGRAPHY.

XII. The Committee on Legal Biography shall consist of five members, of whom the Secretary shall be one. The remaining four members shall be appointed by the President. It shall be the duty of this committee to collect and provide for the preservation, among the archives of the Association, of suitable written or printed memorials of the lives and characters of its deceased members, and to make report thereof at each annual meeting. Such report, and

memorial addresses shall not be read at, but shall be printed in the proceedings of, the annual meeting.

RULES OF PROCEDURE.

XIII. The proceedings of all of the meetings of the Association shall be governed by the rules contained in Cushing's Manual.

XIV. The Executive Committee of this Association shall from time to time prepare and cause to be submitted to the members of the bar of the State a form of organization (constitution or by-laws, or both) for the formation of local bar associations, such by-laws to provide for the selection of representatives from such local associations to this Association and for the payment of such dues by such representatives as may be fixed from time to time by this Association.

XV. At each annual meeting the Association shall elect two delegates to the next annual meeting of the American Bar Association.

In the event of the death or inability of either or both of said delegates to attend such meeting, the President shall appoint others in his or their stead.

XVI. The Executive Committee of this Association are hereby empowered to cause to be published, in such form as they shall deem best, the proceedings of the Missouri Bar Association, and to publish, or arrange for the publication, periodically, of a bulletin, which may or may not include such proceedings, and such other information as they may deem of importance or interest to the bar of this State.

THIRTY-FIFTH ANNUAL MEETING

OF

Missouri Bar Association

AT

KANSAS CITY, MISSOURI

THURSDAY, SEPTEMBER 27TH, 10 A. M.

MORNING SESSION.

The meeting was called to order in the Francis I room of the Baltimore Hotel, Kansas City, Missouri, by the Hon. James H. Harkless, President, at 10 o'clock a. m.

PRESIDENT HARKLESS: Gentlemen of the Bar, I regret to announce to you that the secretary of the Association, Mr. Daniel, is unable to be present on account of having met with a serious accident. It is reported, however, that he is getting on nicely and desires me to express to the Association his regret at not being able to be present. However, we have been fortunate in having an able assistant secretary of the Bar Association, Mr. Dell Dutton, who has been connected with the Kansas City Bar Association as secretary for a number of years, and whose efficiency, activity and ability in this line is always worthy of comment, as I happen to know, and I certainly want to express to him my appreciation for the good work that he has done.

Now, Gentlemen of the Bar, I believe that I can truly say to you that we meet under auspicious circumstances. We have had an increase of some two hundred or two hundred and fifty in membership of this Association since our last meeting and this speaks exceedingly well of the lawyers of the State. I might say, without undertaking to be considered as

officious, that during the last year I have visited some fifteen or twenty different cities in the State, visiting their bar associations and doing my best to work up interest in the Missouri Bar Association, and I believe, and at least I hope, that results have been brought about. I have been able to do this largely for the reason that I have no law practice; the only client that I had died nearly a year ago and I have had very little to do. And, therefore, I have attempted to devote some time and attention to the interests of the Association. I am not entitled to any credit for it, and don't desire any. It was simply the matter of my having to have something to do, and, therefore, I availed myself of the opportunity.

Gentlemen of the Bar, a welcome will be extended to you by a young practitioner of our city, who has just recently entered into the law practice. He is very anxious to secure clients, and particularly to secure business from the lawyers. A young man of this kind always has my sympathy; a young gentleman starting out in the practice we all know has much difficulty in getting himself introduced before the people, especially if he happens to be a stranger and a young man without prestige. However, I know that you will bear with this young man, and I now desire to call upon this young gentleman, the Roman of the Missouri Bar, Judge John F. Philips. Come forward, Judge.

Gentlemen of the Bar, the young practitioner—Judge John F. Philips. (Loud Applause.)

ADDRESS OF WELCOME.

By HON. JOHN F. PHILIPS.

Mr. President, and Gentlemen of the Bar:

It is not clear to my mind why President Harkless selected me to make this welcoming address. I have voluntarily emasculated myself as a Judge, and Anno Domini has eliminated me as a practicing Attorney at Law; while my relation to this Association is like Burrell's boarder, who never missed a meal or paid a cent.

The experience of those of you who have hitherto attended the conventions of this Association at Kansas City renders it unnecessary that I should give any assurance of the unstinted

hospitality of the local bar. While you may not leave here with as much money in your pockets as you brought with you, it is not improbable that you will take away about as much virtue as you ever had. As I am not the Mayor, I can not turn over to you the keys of the City, and its entire freedom. But if any of you should get into the police lockup, I promise to bail you out, unless "the gang" demand a cash deposit as surety, for I don't like the system. That is a depository from which no returns are made. When a dollar drops into that insatiate maw,

"Like the dew on the mountain,
Like the foam on the river,
Like the bubble on the fountain."

it is gone and gone forever.

The place of your meeting is appropriate and inspiring. This City presents a bright picture of puissant life, breathing with the active energies of industrial enterprise, wonderful in commercial growth and prosperity. It has lawyers enough to colonize several new States, with a capacity and avidity to see that no phase of litigation is neglected.

It is still more fit that this convention should be held here, as we have given you for president the current year the only Jim Harkless in the State. While he may not be "the nonpareil of beauty", he is "a joy forever". He is a lawyer of high degree, hard to beat. He is gifted with a wit as spontaneous as it is effervescent and a sense of humor that turns the somber hues of life into the ruby-tinted colors of the dawn. He has the tenderness of a gentle woman, with the spirit of the gladiator. He never failed to make me feel both glad and sorry when I felt constrained to turn down his contention in court, for he would waylay me when I came off the bench and compliment me on my "learned opinion" and invite me to accompany him to some quiet, sequestered place to be "refreshed". This Association made no mistake in honoring him with the presidency. He has just told you that he had but one client, and he has recently died. (I assume as the shortest way of getting free from his lawyer.) So that he has the leisure to put in most of the summer in traversing the State, drumming up a large attendance of the craft for this meeting,

as I suspect in order that he might have a large audience to listen to his forthcoming address. And as you will be fresh you will be better able to hear him to the finish.

What else there may be in store for your delectation and edification I know not. But judging the present by the past, you may learn from reports and discussions how the elders of the profession frivoled away their time in wandering through the wilderness of technicalities, lost in the verbiage of pleadings and blindly following the hard beaten paths of precedent. The law is to be so recast and simplified as to make the generating of shysters easy, by way of legislative conception without confinement or mental parturition. Under a Reformed Code he may bring an action in replevin for a horse and recover judgment for a cow and calf. Old *allegata et probata* is to be abolished. He may be indulged to bring an action *ex delicto,* and recover in *ex contractu.* And if the defendant's counsel should say *non haec in foedera venis,* the *audax judex* on the bench will advise him that is a dead language, as much so as *absque hoc;* and that a lawsuit is merely a personal altercation, a free fight, without a referee.

Finch said that "all the sciences are raked up from the ashes of the law". But it begins to look as if the law is not only to turn to ashes, but the man who should be found looking among its cinders for sparks of its reason and philosophy will be regarded as archaic. The old law books are to be shelved in the catacombs, surrounded by the skeletons of their authors. And in the onward march of the army of reformers the law schools may be turned into training stations for witnesses and learning how to successfully operate the wheels of the jury box.

If, however, the law is to remain in the category of the sciences and its practice is to be regarded among the noblest callings that ever appealed to the ambition of intellectual man, it must ever be the "very perfection of reason", as intricate as sound logic and as rigid as truth itself. The decision of the courts must run along lines of established principles of application and the rules of pleading and procedure, while reasonably intelligible, must be certain, at least to a common intent. As no trustworthy architect would undertake the erection of a huge building without compass and plummet,

and due regard to the immutable law of gravitation, so no system of laws or procedure should be formulated or constructed at loose ends, involved in its own confusions, leaving its application to the mind untrained in the schools of the common law, who rules by guess, and proceeds to judgment without the light of understanding. And as all science must be progressive, constantly making new discoveries, adapting old principles to new conditions as they arise, so must the law enlarge in its applications, possessing flexibility sufficient to meet new conditions in our complex economic, social and civic and domestic affairs. Consequently, it must now and then be subjected to the crucible of common sense to get rid of the accumulation of dross and worthless matter. But the trouble with the hysteria for innovations and changes is that not enough is left to the natural process of evolution, rather than resort to the violence of revolution.

Anarchy is a dreadful thing; but chaos is worse. The God of the universe would not stand for that. When He beheld the chaotic mass of matter without form, and darkness dwelling on the face thereof, He commanded that it take shape and proportion. He did not create man until He had hung in the firmament the great lights so man could see which way to move and how to work. While the mythological conception of Justice was that its goddess was blind, the only time, in Biblical history, the God of all justice and righteousness appeared to man to deliver to him His commandments was in the bush of flaming fire, which blinded the suppliant, but not the Judge. Nor did he send Moses down the mountain to deliver His mandates to the people according to "what might be Moses'" conception of their purport, but God wrote them on enduring tablets of stone so they could be seen and read of all men.

This land has produced a plenteous harvest of "pious prostitution" and veneered rascality. It now has a lot of so-called "free-thinkers" and noisome reformers who would have the Ten Commandments revised so as to make them conform to modernized notions and the practices of many. But nothing ever advanced by them has improved on the Decalogue or succeeded in making lying and stealing a part

of the Code of Honor or in placing fornication and adultery among the cardinal virtues.

We also have a lot of lawless-minded people like the I. W. W.'s who long for the Renaissance, when,

> "No common weal the human tribe allied,
> Bound by no law, by no fixed morals tied;
> Each wise in instinct, his own welfare sought,
> And snatched the booty his own fortune brought."

There were then no courts of justice, no lawyers, no technicalities or precedents. Bills of exceptions were not allowed and appeals were not granted. There was no due process of law. The approved writ was the hue and cry and the mode of trial was by wager of battle.

But when, in its march across the centuries of dark ignorance and superstition, civilization reached the conception that tolerable government is inseparable from the sense of the personal independence and dignity of individual man—that life, liberty and the pursuit of happiness are among his inalienable rights—the great lawyers became the *sine qua non* of free and just government and they have ever since been found in the advance guard of every army battling for liberty with law and government without oppression. And in the future whenever these attributes of the freeman shall be imperiled and there shall come a cry from the wronged for a champion, in the forefront of dauntless knights, flashing the sword of justice in the struggle will be found the great judges and the great lawyers.

Mr. President, I was advised by you that my friend, Jimmie Jones of St. Louis, was to respond to my welcome, and that he had been coached to use on me the sandpapered side of his tongue. While I did not welcome this fact, yet, I am somewhat like "the roughneck" who sat down at the dinner table of a churchman. *Sans ceremonone* he thrust his knife into the butter plate and his fork into a biscuit. When the hostess softly said to him, "Please wait until husband asks the blessing", the hungry fellow only looked up to say, "I don't care what he may say, he can't turn my stomach". But unfortunately for Mr. Jones and you, and fortunately for me, his train met with an accident. Long since, however, he punished me sufficiently by handing up to me, when on

the bench in St. Louis, many double-twisted, gnarled problems of law to solve. While he is not another Iago, whose mind, Shakespeare said, "Toiled in mischief", he has a positive genius for bringing distress to the judicial mind by originating and projecting some of the most complex questions pertaining to the law of insurance, conceivable or imaginable. And he would present them with such witchery of manner, and persuasive, plausible logic as was liable to fool the Court, however unintentional on his part. For I will say in his absence what I would have been pleased to say to his classic face, had he been present here, that he is intellectually honest and one of the brightest ornaments of the Bar of Missouri.

In conclusion, Gentlemen of the Bar, I extend to you more than a perfunctory welcome to my home city and hope that each and all of you will go away from this meeting feeling that it was good to have been here. Your presence brings an especial pleasure to me, for there is nothing that tends more to keep the warm gulf stream of youth flowing on far into the arctic regions of old age than to come face to face and heart to heart with the men who stir within me cherished memories of younger, exuberant life, and it kindles in me the hope that the sunset glow but foreshadows the coming of another morning.

PRESIDENT HARKLESS: Gentlemen, in the absence of Mr. James C. Jones, who was to have responded to the address of welcome, I will take the liberty of calling upon one of the active and distinguished members of our Bar Association, Judge Harris, who will respond to the welcome. He needs no introduction to the Missouri Bar—Judge Harris. (Applause.)

RESPONSE.

HON. DAVID HARRIS, Fulton, Missouri.

Mr. President, Gentlemen of the Bar:

I haven't any doubt in my mind but what all of you know now just how I feel,—called on without a moment's notice to take the place of the distinguished gentleman from St. Louis to respond to this wonderful address of welcome to

which we have just listened. I don't know why our honored president called on me unless it was because he thought that there is no lawyer, a member of the bar in the State, that is more pleased than I to attend these annual meetings of the lawyers of the State. They are an inspiration to me. I look forward to them during the whole year, and I come to them and I meet you men, many of whom I do not see but this once a year, and go back to my daily task and daily grind refreshed in mind and spirit. As a young lawyer, I rarely ever let anything prevent my attending the annual meeting of the Bar Association. I never attended one in my life that I didn't learn something, if in no other way than from the conversations that I had with other practicing members of the bar. My only regret has been in these years that have gone by that more of the lawyers of the State have not appreciated the great benefit that comes to every practicing lawyer from these annual meetings of their fellows, and I believe that the lawyers of this State are missing a great opportunity when they do not make of their State Association what the doctors and other professional men have made of their state association. Instead of one hundred and fifty or two hundred men here this morning, there ought to be at least one thousand here, and I don't know of any better way that the lawyers of this State could spend three or four days in any year than by meeting together in an annual association such as this.

The distinguished gentleman who has given us the welcome this morning has told you that there be some who think perhaps the day will come when we will no longer need lawyers; when the world will jog along in its own way without their help. For my part, I do not believe that that time will ever come, and I, for one, believe that the day will be very dark when the world shall cease to honor and have need for such men as the distinguished gentleman who addressed you this morning. He has been an honor to our profession, and in honoring him we do honor to ourselves. I trust that he will be able to be with us many, many more years to come.

Now, I might take this opportunity, speaking as I do after Judge Philips, this morning to say something about

him. The last time he and I were together a few weeks ago it was our good fortune to face a religious congregation, an old-fashioned Baptist celebration. I said a few words preceding him, and he made the address of the occasion, and he took time from the ministry of the address which he made to insinuate that his good sister, a woman now of blessed memory whom I revered, had lost a piece of property because she consulted me. Now, I can't refrain from saying this, that, knowing us both, and knowing him longer than she had me, she consulted me.

Now, my friend Harkless here, has told you that he has lost his last client. I don't know whether that client died or was put out of business by the friendly manner of the law, but anyhow, he says he has lost him, or it—I don't know whether it was "him" or "it".

MR. HARKLESS: "It."

JUDGE HARRIS (continuing): It was "it", was it? Well, he has lost it. Well, now Brother Harkless, if he progresses, will soon be in shape to act as Circuit Judge.

Now, my friends, there are dozens and scores of men in this company that could give expression much better than I to the pleasure which we of the country and throughout the State have in assembling ourselves here at this time, but there is not one of them that is gladder than I am to be here, and so I say in behalf of we in the State that we thank you, sir (to President Harkless), and the men of the Kansas City Bar, for your hospitable welcome. We are sure we are going to have a good time, and we are sure you are going to see us all at last loaded on our trains when the meeting is over. (Applause.)

PRESIDENT HARKLESS: I think that it is well that Jones wasn't here. He might have been ashamed of himself after listening to the address of Judge Harris. However, we are always glad to have him.

Now, gentlemen, the General Council of the Association will have to meet at some time before the session this afternoon. They have some duties to perform, and also they have to pass upon the question of membership that is to be submitted to them. In the meantime, I would suggest that we, after a few moments, will adjourn for the morning session,

in order to give the General Council the opportunity to meet together and pass upon such questions as are necessarily up for them to report upon. However, there are some other matters that we should now call attention to.

Upon the program is the report of the committees. This, of course, does not refer to the general standing committees. There is one committee, however, that I am quite satisfied that this Association would be pleased to learn something concerning its work, and that is the committee that was appointed at the last meeting of our Association in St. Louis, having for its purpose and object the drafting, presenting to, and attempting to secure the passage of certain matters of legislation pertaining particularly to the Practice Act of the State, and that committee had upon it some of the distinguished lawyers of our State. I suppose that by virtue of my office I was *ex officio* chairman of that committee. Judge Harris, James C. Jones and other gentlemen I might mention had active charge of that matter. I might state to you, gentlemen, in a general way,—you perhaps are all, or at least a large majority of you, are familiar with that character of legislation that was recommended to the State.

The principal one was known as the "Civil Procedure Act", in which we sought to remedy, shorten and correct many of the things that we regarded were imperfections in the civil code procedure. A bill was prepared and was adopted by this Association and a committee appointed to present it to the Legislature. When the Legislature met, the committee was organized and presented the matter to the Legislature. It was my misfortune to be unable to be at the Legislature much of the time, because of my absence in the West at that time, and, perhaps, it might have been much to the advantage of the committee that I was not. However, I can say to you that the committee gave it great and prompt attention. They succeeded through their efforts in getting the bills practically as they were adopted by the Bar Association through the Lower House. They then went to the Senate, and after much pressure, much work and much agitation and discussion, finally got it out of the committee's hands ready to be upon the calendar, and placed upon the calendar for the last day of the session of the Senate.

Just why it was that those bills could not be resurrected, why they could not be brought forth, was somewhat of a mystery. It could not be understood. But, at least, they did not get out and get upon the calendar until the last day of the session of the Senate. Then, as you well know, there were many bills pressing for passage upon the last day, and many more, as Judge Harris well knows, that were not to be pressed for passage on the last day, and the result of it was that when we got down to the final situation those bills could not be and would not be reported by the committee, or, at least, would not be taken up upon the calendar or called up, for the reason largely that there were a large number of other bills upon the calendar which they did not desire to bring up in the Senate, and the result was that this bill had to go with the balance. And, in this connection, I want to pay a compliment to the Governor of the State. I called upon him the last day of the session, when I saw what the situation was, and insisted and urged upon him that he attempt to aid us in this matter, as you well know he, in his address, had recommended and spoke very favorably of the reform of Civil Procedure Act. He gave the matter his earnest attention and with us aided the best he could to attempt to bring that bill out on the last day, but the result was that it did not come. Therefore, when the Senate adjourned, the bill, having passed the House and got upon the last day's calendar of the Senate, died a-borning.

One bill passed in reference to the establishing of a standard order of publication in the State, which was, of course, good. That went through. The other bill, in reference to and modifying the application of the common law, was passed and got through the House. These were the only two bills, to my recollection, that we succeeded in getting through.

I would like to have Judge Harris make a further report upon this matter. Judge Harris, will you please do so? You were upon that committee, and I would be glad to hear from you.

JUDGE HARRIS: Mr. Chairman, I would be very glad to comply with the request of the Chair, and will do so a little

bit later, if you will give me an opportunity to consult a little memoranda I have.

PRESIDENT HARKLESS: All right, sir. Very well.

Now, gentlemen, I suggest we now take our recess until the hour of 2 o'clock.

I want to just state to you, gentlemen, that it is especially requested that every member register. A register has been provided with the secretary, and I ask that each and all of you register.

I desire to further state to you that now will be a good opportunity for you gentlemen to present to the treasurer your banquet exchange tickets and secure them for the banquet on Saturday night.

MR. HALLIBURTON: Mr. Chairman, I believe it has been announced that 2 o'clock this afternoon is the hour we have adjourned to. I am told there will be a parade in this city in recognition of the boys who are going to take their places in the regular army. I believe that the lawyers of this convention would be interested in that matter. I don't believe this Bar Association ought to be in session at that time. I simply make this suggestion as to whether or not we might not meet at a later period, without interfering with the business of the convention and yet give us an opportunity to witness that parade.

PRESIDENT HARKLESS: Well, gentlemen, what have you to say in reference to the suggestion?

MR. HALLIBURTON: Mr. Chairman, how much business have we got this afternoon?

PRESIDENT: There is, of course, the reports of the standing committees.

VOICE: I move we adjourn until 3 o'clock.

PRESIDENT HARKLESS: Now, gentlemen, just before I put that motion, I want to call your attention to the fact that through the City Counselor of this city, Mr. Harzfeld, an effort has been made to get together on this occasion, the city counselors and city attorneys of Missouri cities, to meet here and form a city counselors' section of the State Bar Association, to work together to obtain greater powers for the cities. Now, is Mr. Harzfeld in the room? (Mr. Harz-

feld rises.) Mr. Harzfeld, what have you to suggest in reference to this, the time and place of meeting?

Gentlemen, Mr. Harzfeld, the City Counselor.

MR. HARZFELD: I would just simply like to get in touch with the city counselors and city attorneys of various cities present, and we can arrange our own meetings. The only thing is if they will let some one know they are here and would like to meet in a session.

MR. LAMAR: Mr. President, I would like as a matter of inquiry to know when and where the counselors will meet?

THE PRESIDENT: Now, right here in the adjoining room, right immediately after we adjourn.

Gentlemen, if there is nothing further, we will entertain the motion to adjourn until three o'clock.

Which motion was duly seconded and carried.

MR. HALLIBURTON: Make it 3:30.

THE PRESIDENT: Very well, if the gentleman accepts the amendment, to 3:30.

Meeting adjourned until 3:30 p. m.

Pursuant to adjournment, at 4 p. m. the Association convened, and the hour being then so late, an adjournment was taken until 10 o'clock in the forenoon of September 28, 1917, Francis I Room, Baltimore Hotel.

SECOND DAY, FRIDAY, SEPTEMBER 28TH, 10 A. M.

MORNING SESSION.

The meeting was called to order by the president.

PRESIDENT'S ANNUAL ADDRESS.

"THE NEW NATION."

In 1863, among the agreeable surroundings of a London suburb, Mr. James Wilson, then late Minister to Turkey, wrote a book, the title of which was "The Rise and Fall of the Model Republic." Mr. Wilson was a Southerner, and, if further elucidation were necessary, his point of view may be gathered from the further statement that he was also the author of an earlier volume entitled "The South Vindicated."

In 1863 the tide of conflict seemed setting in strongly against

the North. Bull Run and Gettysburg seemed to presage the final overthrow and downfall of the nation. Mr. Wilson, therefore, was well justified in sharing the general opinion that the Southern Confederacy would win. So sure was he that the cause of the South must prevail in the appeal to arms that he did not deem it worth while to await the coup de grace presently to be administered by the Southern armies. Perhaps being pricked on by an ambitious publisher with a desire to be first in the field, his work chronicling the final victory was brought out before the final end —an example of enterprising journalism still followed to this day.

The book is interesting, however, not as a mere chronicle of an event which he mistakenly believed would come to pass, but as a philosophical analysis of the causes and reasons which led to this conclusion. The kernel of his argument may be gleaned from the following paragraph:

> "The Federal Union was in fact but the creature of the States composing it. The Constitution as justly interpreted by Lord Brougham and other distinguished commentators, was a mere treaty of alliance, offensive and defensive. The States which were parties to this league were to remain sovereign."

And, so runs his theme, when the creature attempted to usurp the powers and functions of its Creator, it was righteously destroyed.

Until the Civil War, indeed, the doctrine of State sovereignty was the prevailing view, not only among laymen, but lawyers as well. Mr. Jefferson, in a letter to Colonel Humphreys March 18, 1789, defined the nature of the league between the States in the following words:

> "The best general key for the solution of the question of the powers between our governments is the fact that every foreign and Federal power is given to the Federal Government and to the States every power purely domestic."

And at another time he wrote:

> "The Federal is in truth our foreign government *which department alone* is taken from the sovereignty of the several States."

II.

But, with the triumph of the Union Armies the doctrine of State sovereignty perished forever. In his message at the opening of the extra session of Congress on July 4th, President Lincoln defined a sovereignty as "a political community without a political superior." He further said:

> "Tested by this, no one of our States, except Texas, ever was a sovereignty. And even Texas gave up the character on coming into the Union. * * * The States have their *status* in the Union and they have no other

> legal *status*. * * * The Union is older than any of the States, and in fact it created them as States. Originally some dependent colonies made the Union, and in turn the Union threw off their old dependence for them and made them States, such as they are. Not one of them ever had a State Constitution, independent of the Union."

No argument based in any particular on State sovereignty can ever be tolerated in the arena of constitutional debate. Our fundamental law must always be viewed as an expression of the national will.

But, of course, State sovereignty and State rights are totally different phrases and the destruction of State sovereignty did not by any means destroy the rights which the States possessed. There still remained at the close of that war, and even to this date, abundant room for differences of opinion as to the extent of authority that is entrusted to the Federal Government by the people. In the distribution of power among the many governmental organizations and among the many departments there has always been endless controversy.

In the circumstances of the Civil War, and shortly following it, it was very easy to legislate away many rights which had been claimed to be rights of the States, although President Lincoln showed that in many instances he realized he was treading on precarious constitutional grounds. And, but for the plea of the higher necessity of saving the Union, much that was in fact enacted into laws, or enforced by Executive Order, would not and could not under rightful interpretation of the Constitution have withstood attack.

The thirteenth, fourteenth and fifteenth amendments to the Constitution came at a time when the States, fresh from their awful experiences of the war, deemed it wise to yield, in large measure, the rights theretofore reserved to them. These amendments and the contemporaneous legislation, not only had the effect of solidifying and strengthening the National Government, but of confirming the centralizing tendencies and forces which the war set in motion.

III.

The great social and industrial development of the country following the Civil War, naturally exercised an enormous influence upon our political institutions, and upon our concepts of government and of the prerogatives of the States and the Federal instrumentalities. As Mr. Bryce points out in his introduction to the American Commonwealth:

> "America changes so fast (in these respects) that every few years a new crop of books is needed to describe the new face which things have put on the new problems that have appeared, the new ideas germinating among her people, the new and unexpected developments for evil, as well as for good, of which her established institutions have been found capable."

Naturally and inevitably there grew out of this situation a struggle between the State and the National Government as to

the border land between their respective spheres of jurisdiction. Nobody has more concisely stated the various agencies which have contributed to the dominance of the centralizing tendencies of this Government than Mr. Bryce as follows:

> "To the extensive interpretation by the judiciary of the powers which the Constitution vests in the National Government;
>
> "To the passing by Congress of statutes on topics not exclusively reserved to the States, statutes which have extensively narrowed the field of State action;
>
> "To the exercise of executive power which, having been approved by the people, and not condemned by the courts, have passed into precedents."

Not because he was a pioneer in this respect, but because of the faculty which he possesses of always attracting public attention to his acts and sayings, Mr. Roosevelt is commonly supposed to have more vigorously set the third influence adverted to by Mr. Bryce in motion, than any other of his predecessors. And that he was a firm believer in the wisdom of this policy is exemplified by a speech which he made at Harrisburg in 1906 in which he declared that the power of the Federal Government should be increased "through executive action * * * and through judicial interpretation and construction of law."

Shortly thereafter, Mr. Root, the then head of his Cabinet, declared in an address before the Pennsylvania Society in New York that if the people desired it "sooner or later constructions of the Constitution * * *" will be found "to vest additional power in the National Government."

"State rights," said President Roosevelt, "should be preserved when they mean the people's rights, but not when they mean the people's wrongs." An example of to what mischievous purposes may be put the use of a catchy phrase.

But this tendency of the executive power, although it may claim Mr. Roosevelt as its putative father, has at least never been disowned by any of his successors. One standing from the viewpoint of a Jefferson or a Hamilton, or of any of the fathers of the Constitution, would look with mingled feelings of perplexity, astonishment, much regret and perhaps some joy, at the remarkable aggrandizement of power now claimed and exerted by the executive as a matter of course and without public protest, without in the meantime having changed a syllable of the worded Charter supposed to be the repository of that power.

It is not the purpose of this paper to review these changes and the growth and development of this constitutional interpretation. In an assemblage of lawyers such work would be but wearisome iteration. They belong to history. The States have become more and more closely knit together. The causes for many of these encroachments upon what were theretofore deemed prerogatives of the States were partly economical, partly moral, largely paternalistic and also largely imperialistic.

The Interstate Commerce clause is now expanded not only to embrace the instrumentality of commerce and the commodity itself, but has also taken into its benevolent and all-embracing arms, the child worker in the factory, the men and servants not only in control of the direct movement of the trains, but en-

gaged in almost any department of railroad service, and their hours, conditions of labor, and wages have become a matter not only of national concern, but control as well.

In 1889, President Wilson, in a brief manual for schools and colleges, dealing with the State and Federal Governments, illustrated the enormous power reserved to the State in the following language:

> "A striking illustration of the preponderant part played by State law under our system is supplied in the surprising fact that only one out of the dozen greatest subjects of legislation which have engaged the public mind in England during the present century would have come within the powers of the Federal Government under the Constitution as it stood before the war, only two under the Constitution as it stands since the addition of the war amendments. I suppose that I am justified in singling out as these twelve greatest subjects of legislation the following: Catholic emancipation, parliamentary reform, the abolition of slavery, the amendment of the poor laws, the reform of municipal corporations, the repeal of the corn laws, the admission of the Jews to Parliament, the disestablishment of the Irish church, the alteration of the Irish lands, the establishment of national education, the introduction of the ballot, and the reform of the criminal law. Of these every one except the corn laws and the abolition of slavery would have been under our system, so far as they could be dealt with at all, subjects for State regulation entirely; and of course it was only by constitutional amendment made in recognition of the accomplished facts of the war that slavery which was formerly a question reserved for State action, and for State action alone, was brought within the field of the Federal authority."

But in this year of Grace, 1917, we can set off as against these domains of legislation, then thought to be beyond the bounds of Congress, the following analogous subjects, all of which have been brought within the exertion of either Federal, legislative or executive power:

1. Extension of the Interstate Commerce clause by legislation and judicial interpretation to the practical exclusion of substantial State authority.
2. Extension of the application of the constitutional provision giving Congress power to establish Post Offices and post roads so that it now embraces:
   (*a*) The regulation, if not control, of many kinds of private business;
   (*b*) The regulation of the practice of medicine;
   (*c*) Under the guise of prosecution for mis-use of mails to really prosecute in the Federal Courts for offenses against State statutes and properly justiciable only in State courts.
3. The control of water-ways;
4. Reclamation projects and the laws relating to the land, forestry and mineral reservations.

5. Laws for the promotion of good roads under which the National Government takes upon itself the greater share of the burden for this strictly internal improvement;

6. The Pure Food and Drug laws extended by departmental rules and judicial interpretation to include practically every article of food or medicine and regulating its manufacture, as well as its sale;

7. The Mann, or the White Slave Act—a police measure pure and simple, designed to regulate private morals;

8. The Income, Inheritance and Profit taxes—laws of such wide and comprehensive scope that they amount to a regulation and control of practically every line of human endeavor;

9. The vast code of departmental rules and regulations having in many cases the force of legislative enactments which bear directly or indirectly upon every variety of business relations;

10. And finally, and as an important consequence of the present war the vast extension of executive power of the Government to include not only the regulation, but the possession or ownership as well, wherever deemed necessary, of practically every conceivable industry or business, and the fixing of prices which may be charged for every commodity which may be grown or manufactured.

Let me not be misunderstood. I naturally entertain some pretty positive convictions upon these subjects. But in this paper I am laying all personal views to one side. I am not here to lay a wreath upon the casket of States' Rights, nor, on the other hand, to acclaim with huzzas the on-coming of the New Nationalism. I only speak as one plain man to another of those things which I do see and to note the current of time and events as I do view them.

But, after contemplating the march of the centralizing tendencies of the Government since President Wilson's Manual of 1889, he would naturally be forced in any further editions of that work to rewrite, if not entirely expunge the paragraph which I have quoted. It is no longer the fact that the States play a preponderant part in our affairs. On the contrary, there is no subject of considerable consequence and concern which has not been invaded and occupied by the National Power. No one can blink the fact that the States are fast becoming provinces of a central empire (or Republic, if that is a more soothing word) and that their functions will be more and more limited to police measures and those of immediate and local concern.

IV.

The natural consequence of the war has been to give tremendous impetus to this centralizing tendency of the Federal Government. That this was inevitable becomes more and more apparent as we become better acquainted with the nature of the task in which we have become enlisted, and the call upon every line of human endeavor and industry made by modern warfare.

The fight against the bill for compulsory selective services in our armies marked in a way the last gasp of the old-time shib-

boleth of State rights. We require at this hour of greatest travail and menace to our liberties a strong, vigorous, and central authority. While in Peace it may be true that in a multitude of counsel there is wisdom, the correct aphorism in war reads "In a multitude of counsel there is confusion."

Every one acquainted with our former military history and policies—the bickering among the States, the refusal to furnish quotas of men and money, the jealous fear that some State might be required to do more than its part, the intolerable delays, vexations and confusions, must view with real solid satisfaction, the swift, steady and sure progress of events since we entered the lists. The contrast between now and then is not only gratifying to our national pride, but is illuminating as showing the great march of national power which has occurred since the days when these activities were last before set in motion.

And now our thoughts and hearts involuntarily turn to the noble captain of our Ship of State. A second Lincoln, given to lead the world from out the bondage of an accursed autocracy. He who with the keen rapier of his matchless logic, beat down the German blunderbuss upon the field of diplomacy, who picked up the gauge of battle flung down by the insolent Bosche and now stands forth, the proclaimed leader and spokesman for all democracies and of the free people of all lands.

With the end of this terrible war things will never become again as they have been before. Let us not deceive ourselves upon that point. We can never go back again to the soft and quiet life which seems so recent and yet through course of events is now so remote from us. With the new birth of freedom which will usher in the renewed nations of now oppressed Europe, will come a regeneration in this land as well.

In the social and industrial readjustments which are bound to ensue, it is too much to hope that we will not encounter storms and stress which will severely strain our good ship of state, but we know that she is built of strong and sturdy timbers, and believe that she will outride the stress and storms that shall overtake and surround her. I believe that in a very real sense we shall emerge from this strife a New Nation, with new ideals and new views of life and of the responsibility of the citizen to his home and to his country. And in this transformation in our national life I also foresee equally radical and fundamental changes in the States, not only in their relation toward their own citizens, but in their attitude toward their sister States and the Nation as well. No longer will the nation be spelled with a small "n" and by the same token no longer can the State be spelled with anything larger, at most, than small pica.

The new problems with which we will be concerned will be not only national and domestic, but international as well. In the close bond of communion and business intercourse that will spring from the Union of Arms with our allies and from the acquaintance and friendship which this war will engender, will come opportunities for national growth and development far beyond our present ken, or our ability to appreciate or realize at the present moment. Our far-sighted business leaders are already sending forth their pioneers who are planting their outposts of vantage and making room for the influx then to come. In that near approaching day the doings of the man in farthest India will be matter of lively concern to us, because we shall have the same business rela-

tion and concern in his affairs, that we now have with our immediate neighbor in Omaha or Chicago. But it must be a Nation which we hail from and who stands sponsor for us to the world. As our soldiers have already taken on the badge of national service and have cast off their insignia of state obedience, so will our soldiers of commerce register from the *United States of America*, and not from Missouri or Kansas.

And as the influence and prestige of our country grows abroad and our citizenship becomes more cosmopolitan and international in its character and methods of thought, the same overshadowing influence will more and more enter into our state and domestic affairs. More and more will the citizen of Missouri become engrossed in business relations and connections with the citizen of Illinois and of New York. He will become restive against the dubious interference attempted to be exerted by the State over his business and affairs which are already subject to national control and concern.

"Why," he will ask, "must I first incorporate under the laws of Missouri and then apply for permission to do business in each of the various States into which my activities may run and be subjected to the conflicting and multiplied burdens and duties incident to such complex relation and control, when the whole matter might be vastly simplified by one charter and one control granted and exercised by the National Government?"

And with the broadening and expansion of our business and the acquaintance engendered by such frequent intercourse, will disappear that great pillar of State rights—"State Pride"—except in so far as it may be likened to the ordinary civic pride which every well-minded citizen takes in his community. But that narrow, self-centered State pride so largely born out of isolation and lack of acquaintance and intercourse with the people of the other States will inevitably fall when that isolation is removed and that acquaintance is made.

So that as I look into the future, I can foresee a time not greatly remote, but comparatively near, when the State and its institutions will cease to exist as anything but administrative sub-divisions of the Commonwealth at large, in perhaps much the same relation that our county organization now sustains to the State. In the onrush of the national spirit and life as it will emerge from this war, no other result can be possible. Against the irresistible surge of its forces, Statehood and State Rights, in so far as they present an obstacle to the full and free growth and development of the National Idea, must give way.

V.

And in what spirit shall we contemplate this passing of Statehood and State Rights? Shall we rejoice, or shall we grieve? As lawyers and philosophers I answer—neither. For us the past is past. Our part is not now and never has been with the days that are gone or with the glories that are departed. The present engages us, and the future beckons. We needs must keep our eyes clear and minds steady to meet the great obligations and responsibilities which are upon us now, and are yet to come.

But, as men and brothers, we do have the right to indulge in these human emotions, and it is with mingled feelings of sorrow

and joy that we must contemplate the great change which is passing before us.

Sorrow, as we say good-bye to an old friend that has served us well in the past. Sorrow, as we see a part of the fabric of the garment of our political life which has become worn out with use and lapse of time, discarded and replaced with something new. We lawyers plead guilty to the charge of conservatism, and we can not contemplate a change so stupendous without an emotion of regret.

But, our feelings partake more of joy as we turn our faces to the New Day and the new National Life, so full of promise and hope for humanity, which will lie before us. Joy, that the political shackles will have been struck from the poor and oppressed of all lands. Joy, that to the whole world has come a new birth of freedom. Joy, that each Nation is not henceforth to live alone its selfish and self-centered existence, but that generously and broadly human love and human sympathy will be the dominant notes in international relations and affairs.

"'Till the war drum throbb'd no longer
And the battle flags were furl'd
In the Parliament of man, the
Federation of the world."

MR. HARZFELD: I have a resolution to offer; I would like to have the secretary read.

THE PRESIDENT: Mr. Harzfeld, the city counselor of Kansas City.

MR. HARZFELD:

"*Be It Resolved* by the Missouri State Bar Association, in convention assembled, that it does endorse the actions of the various city counselors and city attorneys throughout the State of Missouri in perfecting an organization known as the 'City Counselors' Section of the Missouri State Bar Association.'

"*Be It Further Resolved*, That the Missouri State Bar Association believes that the conferences of this section will be of inestimable value to the various cities in the State in the procuring of concerted action for needed legislation in order to enhance the power and safeguard the interests of the various cities of the State.

"*Be It Further Resolved*, That the Missouri State Bar Association urges all city attorneys and city counselors throughout the State to join this section of the Missouri State Bar Association and calls upon all people of the State to aid this section in its efforts to obtain relief for the various cities.

"*Be It Further Resolved*, That it endorses the action of the city counselors' section in holding a meeting of the section at Jefferson City in December of this year."

Mr. President, I move the adoption of the resolution.

Which motion was seconded by Mr. Francis Hayward and upon a vote being taken, duly carried.

JUDGE SAMUEL B. STURGIS: Mr. Chairman, I think it would be appropriate, if not imperative, at this time that a committee be appointed of the Bar Association to formulate and present to this association for adoption, expressing our loyalty to the President and those in authority in connection with the present world war. I move the appointment of such a committee.

Which motion was duly seconded by Mr. J. C. Jones, and upon vote being taken, carried.

THE PRESIDENT: I will appoint upon that committee Judge Sturgis, Robert Lamar of Houston and Hunt C. Moore of Kansas City.

JUDGE SHOWALTER of Kansas City: Mr. Chairman.

THE PRESIDENT: Judge Showalter.

Judge Showalter then presented certain resolutions, but a point of order being made that he was not a member of the association, the point was sustained by the chairman and the resolution was not considered.

Mr. Krauthoff offered a resolution with respect to a schedule of fees for collections, which was referred to the Committee on Resolutions.

Mr. Lamar, Chairman of the Council, presented the following report: Mr. President: The General Council yesterday took action upon the applications of new members, who were duly recommended by the respective members of their local council, and I desire now to submit a list of the names which I shall ask the Secretary to read, which were reported upon by the General Council, and which, under the by-laws, by the action of that body, became automatically members of this association, unless objection is made upon the floor of the association. The Secretary then read the list, as follows:

C. R. LANDRUM, Mt. Vernon, Mo.
L. NEWTON WYLDER, Kansas City, Mo.
EUGENE R. COCHRAN, Kansas City, Mo.
B. F. DEATHERAGE, Kansas City, Mo.
FRANK T. BURNHAM, Kansas City, Mo.
EVERETT C. MEAD, Kansas City, Mo.
C. R. LESLIE, Kansas City, Mo.
E. J. CURTIN, Kansas City, Mo.
HENRY L. MCCUNE, Kansas City, Mo.
FRED A. BOXLEY, Kansas City, Mo.
KENNETH C. SEARS, Kansas City, Mo.

CHESTER L. SMITH, Kansas City, Mo.
ERNEST A. SCHOLER, Kansas City, Mo.
DANIEL V. HOWELL, Kansas City, Mo.
WILLIAM G. HOLT, Kansas City, Mo.
BROWN HARRIS, Kansas City, Mo.
JAMES W. HAWES, Kansas City, Mo.
MASSEY HOLMES, Kansas City, Mo.
VERNE D. EDWARDS, Kansas City, Mo.
ROBERT M. MURRAY, Kansas City, Mo.
CLIFF LANGSDALE, Kansas City, Mo.
B. C. HOWARD, Kansas City, Mo.
WILHELM HEIDELBERGER, Kansas City, Mo.
DELL DUTTON, Kansas City, Mo.
J. E. TROGDON, Kansas City, Mo.
GEORGE T. AUGHINBAUGH, Kansas City, Mo.
O. J. CHAPMAN, Kansas City, Mo.
J. W. VERNON, Kansas City, Mo.
HARRY D. DURST, Springfield, Mo.
ROSCOE PATTERSON, Springfield, Mo.
PERRY T. ALLEN, Springfield, Mo.
ALLEN McREYNOLDS, Carthage, Mo.
LAWRENCE H. GRAY, Carthage, Mo.
B. H. ESTERLY, Carthage, Mo.
JOHN H. BAILEY, Carthage, Mo.
M. R. LIVELY, Webb City, Mo.
W. R. SHUCK, Webb City, Mo.
W. A. FRANKEN, Carrollton, Mo.
W. C. RUSSELL, Charleston, Mo.
IRA B. BURNS, Kansas City, Mo.
RAYMOND E. WATSON, Kansas City, Mo.
CLARENCE I. SPELLMAN, Kansas City, Mo.
CHARLES M. HOWELL, Kansas City, Mo.
THOMAS J. HIGGS, Kansas City, Mo.
CHARLES M. BUSH, Kansas City, Mo.
HAL R. LEBRECHT, Kansas City, Mo.
HENRY L. ARNOLD, Kansas City, Mo.
ROY B. THOMPSON, Kansas City, Mo.
O. S. HILL, Kansas City, Mo.
ALFRED M. SEDDON, Kansas City, Mo.
J. A. HARZFELD, Kansas City, Mo.
WILLIAM T. LAW, Kansas City, Mo.
I. N. WATSON, Kansas City, Mo.
I. F. McPHERSON, Aurora, Mo.
GUY B. PARK, Platte City, Mo.
McCABE MOORE, Kansas City, Mo.
GEORGE Y. THORPE, Kansas City, Mo.
HYDEN J. EATON, Kansas City, Mo.
CHARLES W. BRUNN, Kansas City, Mo.
RALPH L. ADAMS, Kansas City, Mo.
J. M. DODSON, Kansas City, Mo.
CAMERON L. ORR, Kansas City, Mo.
ROBERT B. FIZZELL, Kansas City, Mo.
JOSEPH S. BROOKS, Kansas City, Mo.
LESLIE J. LYONS, Kansas City, Mo.
D. E. BLAIR, Jefferson City, Mo.
V. O. COLTRANE, Springfield, Mo.

O. E. GORMAN, Springfield, Mo.
CHARLES H. DAUES, St. Louis, Mo.
A. L. MCCAWLEY, Carthage, Mo.
W. E. BAILEY, Carthage, Mo.
H. W. BLAIR, Carthage, Mo.
THOMAS J. RONEY, Webb City, Mo.
S. W. BATES, Webb City, Mo.
J. M. MCPHERSON, Mt. Vernon, Mo.
WALTER C. GOODSON, Macon, Mo.
JAMES R. CLAIBORNE, St. Louis, Mo.
JOHN S. BAYER, St. Joseph, Mo.
B. R. WILLIAMS, Macon, Mo.
ALEX Z. PATTERSON, Jefferson City, Mo.

This report was approved and all of the foregoing declared duly elected members of the association.

MR. LAMAR: The General Council desires to submit the following nomination for officers for the association for the ensuing year:

For President, James C. Jones, of the City of St. Louis. (Applause.)

For Secretary, George H. Daniel, of the City of Springfield. (Applause.)

For Treasurer, D. D. Dutton, of Kansas City. (Applause.)

For members of the Executive Committee—that is, outside of those who are made members, of course, by our constitution: A. Stanford Lyon and J. M. Lashly. (Applause.)

Gentlemen, I move the adoption of the report of the committee and the election of those indicated as our officers for the ensuing year.

Which motion was duly seconded and carried.

THE PRESIDENT: The next thing in order is the report of the standing committee on "Jurisprudence and Law Reform," Mr. Manley O. Hudson of Columbia. Gentlemen, Mr. Hudson, the brilliant young lawyer from the University of Missouri.

MR. MANLEY O. HUDSON (Columbia): Mr. Chairman, I present a report, gentlemen—seriously, Mr. Harkless, of course, does not mean that—of Judge Sturgis and myself, acting as a Committee on Jurisprudence and Law Reform. The other member of the committee, Judge Farris, was unable to serve.

A Committee on Jurisprudence and Law Reform has a difficult enough job at any time, but when the bar's interest is almost completely engrossed in the conduct of a war which has enlisted the energies and loyalties of a whole community, the task has become indeed Herculean. It may seem a far cry from the perplexing problems of international politics with which all intelligent citizens must now concern themselves, to those details of juridical experience upon a mastery of which depends our success in the continued adaptation of our legal system to the constantly changing demands of a social order. But the need for legal efficiency is so urgent today that even a nation in arms can not afford to ignore it. Indeed, small purpose would be served if we succeeded in establishing our international society on a legal basis, only to find that international anarchy had given way to international chaos.

The new social order which the war is fast producing is going to call for the best energies and the best intelligence of lawyers and judges. What before was already an industrialism in ferment promises now to become under the spell of the trenches a wholly different order with greater complexities and sharper conflicts. The conditions brought on by the war will call for many adjustments in our administration of justice. It may now be too early to forecast the war's effect in changing the content of justice itself, but it is high time that patriotic lawyers should be awake to the necessity of providing in advance a juridical machinery susceptible of easy and free adaptation to new conditions. An inflexible machinery for administering justice, unresponsive to changing emphasis on various community interests, is always in danger of complete subversion. This may be particularly true in the post bellum days ahead of us.

It is a paradox that just when the general interest in law and the administration of justice has somewhat abated, just when of all the professions ours seems to be playing a minor role in the national crisis, the need for law and for its solution of social conflicts is suddenly being very much intensified. If we lawyers can do our job now and revamp our legal machinery so that it can meet the demands of a new order, we shall hold our position as a leaders' profession; but if we fail at a time like this, not only will our leadership be lost, but we shall find our legal order giving way to a program of justice without law and to the social dangers which such a program inevitably entails.

The results of the efforts of the Missouri Bar Association's Committee on Jurisprudence and Law Reform during the last few years are anything but encouraging. For a decade now, various measures have been debated by this association. Many of them have commanded the serious and earnest attention of intelligent committees. A Code Commission appointed by the Governor in 1914 drafted a comprehensive scheme for changes in judicial procedure and its report was widely debated throughout the State. Last year a committee of this association, including in its membership a representative of every congressional district in the State, continued the work of the earlier commission and presented its revision to the members of this association for consideration and debate. The officers of our association have attempted during each legislative period to translate our general agreements into legislative action. It has been a period of intelligent and forward-looking effort on the part of our State Bar, but even the

more sanguine among us can not repress some dismay in contemplating the results of this activity. On the whole, we have had little influence on legislation during this period. Almost none of the measures which we have discussed have found their way into actual practice. This is not saying that our efforts have been a failure. We are reaping and shall continue to reap from the more intelligent grasp of our problems which this activity has brought. Nor is it true that no improvement has been made during this period in the administration of justice. Our appellate courts are more nearly up with their dockets, and some important advances have been achieved in our substantive law. But it can not be gainsaid that our efforts have not changed conditions as most of us have desired.

This is not cause for discouragement, but rather for a redirection of our efforts. The present committee feels that it could perform no more valuable service at this time than to evaluate the methods which we have been using for the purpose of determining how they may be made more effective.

In the opinion of the committee, one of the reasons for the ineffectiveness of some of the activities of our association lies in the fact that the Missouri Bar Association has not a sufficiently permanent organization to insure the continuity and perseverance which are essential to intelligent readjustments. With a new president each year, with a wholly new personnel in each of our committees, it is very difficult for our association to work out any definite policies and to pursue them to adoption by the profession. The present committee, for instance, is expected in the course of one year to present a report on jurisprudence and law reform. The members of the committee have never before served upon it, their plans can not call for activity to be continued beyond this meeting; they can not hope in one year to build up any resources which will enable them to pursue really effective investigations. Under such circumstances, it is almost impossible for much to be accomplished.

Our loose organization seems to be but another indication of our attempt to over-simplify the perplexing problems with which we as a State Bar Association ought to deal. Think, for instance, of attempting any general scheme of comprehensive legislation based upon the efforts of any group of men during a short period of a few months. The European codes resulted from the sustained labors of commissions which were permanently organized throughout a number of years. The most successful of those codes was twenty-three years in preparation. Draft after draft was submitted for debate, not only to the legal profession, but to citizens generally, and the success of European legislation has amply justified the time and energies which were put into its formulation. Compare such efforts in European countries with the spasmodic attempts which have been made in Missouri during the last few years. A code commission appointed in 1914 was expected to report an elaborate revision of the code of procedure to a legislature assembling in 1915. That legislature was expected, in the course of two months, during which time its attention was necessarily given to great varieties of problems, to consider and dispose of the revision so reported. With such methods, how can we ever be sure that the interests of the various elements of our community will be so carefully balanced as to insure satisfaction when our proposals for legislation are enacted.

We have been attempting an almost impossible method of dealing with the most perplexing problems of human society. We have sometimes only stabbed at an offhand solution and, grown discouraged that it does not work. We have attempted too much simplification, we have made our job seem too easy.

The committee believes that a different approach to the problems of jurisprudence and law reform must be adopted. First of all, we recommend that a more permanent, continuous and cohesive organization of our State Bar Association should be attempted. A president of this association should have sufficient tenure of office to enable him to work out a policy. His committees should be organized less with a view to an annual report, more with a view to having an opportunity to formulate the results of our common experience into measures which can command support and which give promise of some general satisfaction. It is not the work of a year; it is not the work of a single brain. It is a task for which any group of us would need the co-operation of many minds.

In the opinion of the committee, we need to take stock of the difficulties and to reorganize our activity so that we may deal with them more effectively than in the past. Your committee respectfully urges that the association give its attention to a more permanent organization of committees and officers for the purpose of carrying out some continuous policies, and we recommend that a special committee be appointed to study the possible methods of organization of State Bar Associations with a view to the proposal of a more permanent and more cohesive organization in our own State.

Whatever improvement of method be attempted, the committee believes that a much larger freedom must be claimed by the bar itself in perfecting the machinery with which it works to administer justice. In the past few years this association has considered the reports of various committees on the reform of legal procedure. At least three of those committees in as many years have recommended that the legislature should be induced to turn over to the courts and to the bar plenary control of judicial procedure. In 1913, the association approved a proposal of a special committee on judicial administration and legal procedure that the matter of making rules for the government of civil practice in trial courts be delegated to the Supreme Court. Little progress in this direction has been made since 1913, however, though the current opinion in the country as a whole is undoubtedly in accord with it. Surely, the futile efforts of this association to get the General Assembly to give its attention to the details of legal procedure ought to have convinced us that dependence on the legislature for advance in this respect is almost hopeless.

It is no new thing to propose that the bar itself should control the mechanism with which it is expected to work. The common law pleading and procedure, which it must be admitted went awry in an era of formalism, were for the most part the results of rules which the English courts evolved for their own guidance. The English Parliament has never attempted to exercise a control of judicial procedure comparable to that which the General Assembly of Missouri now exercises. It is true that the Civil Procedure Act of 1833 did confer the authority under which the Hilary Rules were promulgated, but English law has never known an attempt on the part of the legislature to prescribe the details of court

procedure. None of the recent legislation in the British Empire has departed from the general policy so firmly established during the last century, of leaving the regulation of procedure to the courts themselves, though in recent times a tendency has appeared to admit members of the Bar into rule-making committees.

Rule of court procedure has long been known in the Federal Courts of this country. As early as 1792 the Supreme Court of the United States was authorized to regulate procedure in the various Federal Courts and since 1822 the practice in equity has been under rules promulgated by the Supreme Court. The movement for court control of procedure in the law side in the Federal Courts is now assured of success, and but for a clerical error a statute authorizing this control would have been enacted in the last Congress. After the Senate Committee had finally agreed to it, a clerk in the United States Senate selected the wrong bill and the wrong bill was passed. But everything had gone through but for that mistake. No one would think of proposing that the court control of Federal procedure on the equity side should be abrogated in favor of legislative control. It is true that between 1882 and 1913 no changes were made in the Federal equity rules, but it must be remembered that during this period little protest was made against these rules, nor was any organized effort made to have them changed by the Supreme Court.

In numerous States the Supreme Court is given power to promulgate rules of procedure for all the courts of the States. The plan has invariably met with success. It was adopted in New Jersey in 1912, in Colorado in 1913, in Alabama in 1914, in Michigan in 1915, and in Virginia in 1916. The experience of Colorado is quite illuminating. Under the Act of 1913 the Supreme Court promulgated a set of rules, some of which were objected to by the Colorado Bar Association. Before the next meeting of the association, before a year could elapse when the following meeting of the Bar Association was held, the Supreme Court had invited members of the Bar to assist and had altered the objectionable rules. Suppose these rules had been enacted by a legislature. How much more difficult it would have been to have secured any modification of them. Our experience in Missouri has shown that it is futile to expect close attention to the details of judicial procedure by legislative body whose interest is so largely engrossed in public revenue and public administration.

It seems not too much to say that the whole current of opinion in the United States is towards the regulation of procedure by rules of court, and your committee earnestly recommends that the association again approve the general principle of rules of court procedure and appoint a committee to draft a statute which may be debated before the next legislature convenes. The question of actual changes in the rules themselves would, of course, still be open. What we are suggesting is not a reform in substance, but a change in method, a return to a method which has never been departed from in England and which was abandoned in this State some fifty years ago under the influence of so-called "codes of procedure."

The committee desires to call attention to another movement which is gaining headway in other States, and which will probably become more important as the war's stringency leads us into more economical organization of many of our social institutions. This is the movement towards a unified State court. Missouri's

system of courts is much like that of most of the States of the Union. It had its origin when population was scattered, when interests were far less diverse than now, when appeals were less frequent and litigation less extensive. The system has on the whole worked well. We did not adopt the system of courts prevailing in England, but were fortunate in achieving a greater unity than was possible under the English plan. Judicial administration was a simple matter in pioneer days. There were few Judges, there was little possibility of overlapping jurisdiction, and it was an easy matter to place responsibility. Today conditions have vastly changed. The number of Circuit Courts in the State has increased many times. We have added three Appellate Courts, with the result that questions of jurisdiction are constantly being litigated and occupying the Judges' valuable time. This situation was noted by our Committee of Judicial Administration and Remedial Procedure in 1913. That committee recommended that the Courts of Appeals be merged into the Supreme Court and that divisions of the Supreme Court should be established at the same or different localities, with a central tribunal over all of them to preserve harmony among the divisions and to issue and to adjudicate original writs. The large number of opinions on the writ of *certiorari* since the committee reported in 1913 indicates very clearly that a change in organization was felt to be necessary by the Supreme Court itself. A change has to some extent been accomplished by the enlarged degree of "suprintending control" which the Supreme Court is now exercising. But your committee urges that a conscious attempt at the unification of all of the courts of the States would be a more certain method of accomplishing relief from conflict in decisions and from the expenditure of court energy in contests over appellate jurisdiction. To this end the time would seem to have come when Missouri might well consider the organization of all of its courts into one judicial body, with a centered administrative responsibility, with enlarged capacity for a dispatch of business, and with facilities for making use of judicial experts for specialized problems.

In 1909 the American Bar Association's Committee on the delay and unnecessary cost in litigation, recommended that "the whole judicial power of each State (at least for civil causes) should be vested in one great court, of which all tribunals should be branches, departments or divisions. The business, as well as the judicial administration of this court, should be thoroughly organized, so as to prevent not merely waste of judicial power, but all needless clerical work, duplication of papers and records, and the like, thus obviating expense to litigants and cost to the public."

More recently the movement for an unified State court has had a great impetus in the State of Mississippi, where the State Bar Association has worked out a complete and consistent scheme for reorganizing the courts of the State into an unified court to consist of three grand divisions, a Court of Appeals, a Circuit Court and a District Court. In the main, its suggestion followed that of the American Judicature Society. The plan is similar to that adopted in England in 1873. Interest in the general subject of unification of courts has recently been manifested also in New York, in Illinois, in Alabama and in Louisiana.

Any proposal for the unification of Missouri courts would, of course, have to come before a constitutional convention. It would

be most unfortunate if a constitutional convention were held and if the present organization of courts were either perpetuated or amended without a very thorough study of the subject made in advance. It is most important that the Bar of Missouri should reach some agreement as to the kind of organization which we desire for the courts of the future. Are we to have an economical, efficient, responsible organization of judicial machinery? Or are we to continue an organization which has grown up bit by bit out of conditions which no longer prevail? The answer to these questions will depend on what is done before a constitutional convention is actually called.

The committee desires to point out a few of the more obvious confusions which result from the present lack of unity in our State judicial organization. The confusion was illustrated by the recent case of Rourke v. Holmes Street Railway Co. (1916), 181 S. W. 76. The defendant had constructed a street railway in Kansas City between March, 1899, and July, 1900. In September, 1904, the plaintiff sued for damages for an injury alleged to have been caused to his property by the construction and operation of this railway. In April, 1906, the defendant had judgment and in September, 1906, the plaintiff appealed to the Supreme Court, which, in May, 1909, almost three years later, reversed the judgment and remanded the case for a new trial because of an error committed by the trial court. At the second trial in October, 1910, the plaintiff had judgment for $5,000.00. In June, 1911, the defendant appealed to the Kansas City Court of Appeals, which in June, 1912, transferred the case to the Supreme Court, where it was argued in April, 1913. In April, 1914, the Supreme Court transferred the case back to the Kansas City Court of Appeals on the ground that the statute of 1911 as to jurisdiction was unconstitutional. The opinion of the Supreme Court was by a majority of four to three. In June, 1915, the Kansas City Court of Appeals again transferred the case to the Supreme Court on the ground that it involved a constitutional question which had not been considered by the Supreme Court on the previous transfer. In November, 1915, the case was argued before the Supreme Court, and in September, 1915, it was transferred back to the Kansas City Court of Appeals on the ground that no interpretation of the constitution was necessary to the decision. In May, 1916, the Kansas City Court of Appeals reversed the judgment for the plaintiff and remanded the case for a new trial.

It is not contended that this case is typical. Such confusion does not often arise, but it is an indictment of our system of courts that it may ever arise. Here is a case which had already been in the Supreme Court once, which was transferred from the Kansas City Court of Appeals to the Supreme Court, then back to the Kansas City Court of Appeals, where the judgment was reversed and the case remanded. Such bandying about of litigation can only be calculated to produce distrust of administration of justice on the part of laymen. The injustice to the particular plaintiff or defendant is a relatively small matter, but the congestion of dockets and the waste of the court's time and the State's money which is necessitated by such confused organization of courts is a most serious matter, not only to the legal profession, but to the community at large.

Another example may illustrate how actual conflict results under the present arrangement. Several years ago the Kansas

City Court of Appeals decided that a contract with reference to advertisements in a Sunday newspaper was void, in Knapp v. Culbertson, 152 Mo. App. 147. The St. Louis Republic, which was one of the contracting parties, had no appeal from that decision to the Supreme Court, and it was forced to lose the advantage of the contract. Five years later the same question came before the St. Louis Court of Appeals, which disagreed with the Kansas City Court of Appeals, and therefore certified the case to the Supreme Court, which decided that such contracts were valid, with the result that the St. Louis Post-Dispatch was able to enforce such a contract, Pulitzer v. McNichols, 181 S. W. 1. Here the result of litigation depended upon where the case first arose. If the second case had arisen in the district of the Kansas City Court of Appeals, no appeal to the Supreme Court would have been possible. Could the case have gone to the Supreme Court originally (and it was an important matter), it is at least conceivable that the contract would have been held valid from the start, but because of our organization of courts one litigant received one kind of treatment and another litigant received another kind of treatment, depending upon the part of the State in which his case happened to be tried.

Or, take the numerous instances of *certiorari* in the last few months. In State *ex rel.* Thompson v. Reynolds, 268 Missouri 210, the Supreme Court was called upon to say whether a decision of the St. Louis Court of Appeals had followed the last controlling decision of the Supreme Court, but the result of the Supreme Court's disposition of the case seems to indicate that although the Court of Appeals had failed to follow an earlier decision of the Supreme Court, the Supreme Court will now ask itself whether the earlier decision is right, and when it feels that it is not, it will proceed to overrule it. Such an extension of *certiorari* means that the Court of Appeals need not follow the Supreme Court's last controlling decison, but may take its own view of the principle involved. This merely adds further confusion to our existing system of Appellate Courts, for it furnishes another possibility for postponing final litigation. *Certiorari* has become in fact a lever with which two appeals may be sought, and a vast body of learning has grown up around it. An unified court would have no more trouble with such questions than we now have with two divisions of our Supreme Court, and I think every one will admit these divisions of the Supreme Court work very harmoniously.

These instances are selected merely from random observations. One of the difficulties in forming any judgment of the work of Missouri courts today is the lack of any statistics whatever concerning the work of the courts. Not only is it impossible for the public to know what the courts are accomplishing in the way of dispatch of business, but it is almost impossible for the bar itself to form an accurate judgment of the efficiency of our appellate system or of the extent to which our substantive law is actually living law. A candidate for an Appellate Court will state that he has written so many opinions, or that his opponent has not written so many opinions, but the bar and the public to which such statements are addressed is in no position to judge of their meaning, for there is no record of the day to day activities of our courts which will enable any of us to pass judgment on their work. In other States, in the reports of the Mu-

nicipal Court of Chicago, and the Municipal Court of Philadelphia, we may see what it is possible to accomplish in the way of court statistics. In Illinois, in the statistics published by the Illinois Supreme Court in 1915, with which some of you are doubtless familiar, you will see exactly what court statistics ought not to be. Several thousand dollars were spent in publishing wholly worthless court statistics. One of the vital needs of Missouri at the present time is a system for the compilation and publication of statistics concerning our judicial organization. Your committee recommends that a special committee be appointed for the purpose of devising a plan for making such statistics available to the bar and to the public.

The unification of our courts might mean a saving of money and energy in countless details of business organization. Take, for instance, the court reporters in Missouri: Each of the Appellate Courts has its own reporter and each reporter has his own separate force for the work of his court. If we had a different organization, all of the court reporting in the State might be done by one reporter with one organized force. Not only would this be a saving of money and man-energy, but it would also mean more uniformity in the reports themselves, uniformity in arrangement, uniformity of indexing and uniformity of selection of opinions to be published.

Changes in judicial organization could hardly be contemplated without attention also to the changes in the methods of selecting Judges. The current discontent, voiced whenever our Judges are forced to enter primary elections, found expression at St. Louis last year in an attack on the primary itself. In other States it has found expression in proposals for radically different relations between the various members of a State judiciary. The most interesting of these problems would have one Chief Justice of the State, elected by the people and responsible directly to the people, in charge of the administration of justice throughout the whole commonwealth. Such a Chief Justice would select the various Judges to serve on various courts throughout the State, would assign them to their work with some regard to their special qualifications, and the conservation of their energies. In Mississippi it seems such a proposal is about to be adopted.

The committee has attempted to deal only with the organization of the bar and the judiciary for more successfully meeting the problems which are immediately ahead of us. To this end, the committee hopes that the association may take some action at its present meeting. The suggestions for immediate action may be summarized as follows:

1. The committee recommends that the Missouri Bar Association give its attention to the subject of its own organization, and that a special committee be appointed at this session to consider possible changes in the structure of its committees which will make their work more effective and enable the association to pursue more definite and continuous policies.

2. The committee recommends that the association again approve the general principle of the Legislature's turning over to the bar and to the judiciary complete control of judicial procedure; that a special committee be appointed to draft a statute which would have the effect of leaving all details of court procedure to rules of court formulated by the Supreme Court, with the assistance of the bar, and that copies of such draft be sent to each member of the association for consideration and debate before the next

session of the association, in order that action may be sought from the next General Assembly.

3. The committee recommends that the association's attention be given to the unification of our judicial system; and that a special committee be appointed with a continuous commission to study our present judicial organization and to propose measures for unifying and improving it.

4. The committee recommends that the association appoint a special committee to consider the general subject of judicial statistics and to devise plans for assembling such statistics as might aid the bar and public to a more intelligent comprehension of the work of our judiciary. (Applause.)

Mr. Chairman, that is the report of the committee.

THE PRESIDENT: Mr. Hudson, I assume further along in the course of the proceedings, you will offer some appropriate resolutions upon the subject you have mentioned. The paper, of course, was much appreciated and will be received and filed.

MR. HUDSON: Mr. Chairman, I summarized the recommendations of the committee. They are four in number. That is all we have to offer.

MR. WILLIAMSON: Mr. Chairman, I move you the report of the committee be filed and approved, and that the various committees therein recommended to be appointed be appointed.

JUDGE HARRIS: I believe that this is a very important report and four separate important recommendations have been made. I believe that the proper way to consider this report would be to take up these recommendations separately. Ther may be some members of this body approve one, two or more of these recommendations and do not approve the others. If the motion is put to the body as formulated by the mover, it may require some of us to vote "no," in order to express our sentiments upon one particular recommendation, whereas if we were allowed to vote on these recommendations separately, why, then, we could more clearly and more accurately express our sentiment. As a substitute for the motion that has been made, I move we consider the recommendations separately, taking up the first recommendation, No. 1.

MR. WILLIAMSON: You offer that as an amendment, Judge, I will be glad to accept it.

JUDGE HARRIS: I offer that as an amendment to the motion as made by Mr. Williamson.

MR. WILLIAMSON: Be glad to accept it.

THE PRESIDENT: Gentlemen, will you permit me to suggest this: I had thought it would be a good idea for the reports all to be made so that we may have an opportunity to have them all in. A time and a day will come on Saturday when we will want to take up and discuss these questions. I only make this suggestion to you because we are very seriously behind in the program. I don't want to insist upon it, but call your attention to it simply that we will not get through with our reports and perhaps it would be better to hear all of them and then take up the recommendations after the reports are all in. If there is no objection to that.

MR. WILLIAMSON: Mr. Chairman, if you will pardon me, my position is exactly the same as your own in that I desire to get action. I think Judge Harris is quite right in saying you do not some of you approve some of these recommendations and do approve others, but there can be no harm come from having these committees appointed like committees, to make an investigation, and then at the next session of the Bar Association, when those committees report, then this association will be in possession of all the information and can approve or disapprove the reports of the various committees herein suggested.

MR. JONES: I move you as an amendment, or substitution, that we proceed with the further order of business and take up the consideration of the recommendations after we have concluded the regular order of business this morning.

JUDGE HARRIS: Mr. Chairman, with the consent of my second, I accept the substitution for my recommendation—accept the recommendation as made.

Motion carried.

THE PRESIDENT: Gentlemen, I overlooked one proposition. Mr. Jones didn't get here in time to respond to Judge Philip's welcome. He wired me from Slater and I don't remember the exact language of his telegram, but I quote it from my recollection. It reads like this: "I am in wreck at Slater. I expect to be wrecked by the Missouri Bar Association further on." I notice that he has not yet said he will accept the presidency of this association, and I want Mr. Jones now to say whether he will or not.

MR. WILLIAMSON: Speech! Speech!

VOICES: Speech! Speech!

MR. JONES: I am almost tempted, members of the Missouri Bar, to rise to a point of order, for you have just adopted the recommendation to proceed with the regular order and defer everything else until that is finished, but I do think that I may trespass upon your time for just a moment, and only a moment, to express my great appreciation of the honor you have conferred upon me, and I deem it an especially great honor in this day and in this hour, because I see before us a different kind of work from that which we have been used to.

From year to year we meet here to consider merely the wisdom of the rules of law which the people in person or through their representatives have adopted, and that work done, we have never stopped to inquire into what was an accepted truth, which we all realized, that the people had the right to do what they did, to make, change, construe and execute their own law. But that very right is now questioned by this great war in which we are engaged and the lawyer today must not be merely the lawyer; he must be a patriot as well, and stand for the continuance of the right of the people so rule in person and by representative, and, thank God, to stand for the extension of that right to all peoples of this earth.

> "The star-spangled banner, oh long may it wave,
> O'er the land of the free and the home of the brave."

"Let the song of our flag go over land and o'er sea; to all of God's people, wherever they be.

May the whole world become inspired by its wave, the land of the free, the home of the brave!

Gentlemen, I thank you very much for the honor of presiding over this assembly during this critical period.

(Loud applause.)

The President then announced that the Bar Association would be entertained during the afternoon at the Blue Hills Golf Club.

THE CHAIRMAN: Gentlemen, Mr. Krauthoff's resolution, which has been handed to the chair, provides for the matter

of fixing collection fees, and upon that resolution I have concluded to appoint a committee, who are asked to report. It will be referred to them and they will be asked to report. I will appoint upon that committee Mr. Lee Montgomery of Sedalia, Mr. Thomas H. Reynolds of Kansas City, Edwin A. Krauthoff of Kansas City, Chairman of the committee; Clarence A. Barnes of Mexico and Joshua Barbee of Marshall.

The next matter upon the program, gentlemen, is the "Judicial Administration and Remedial Procedure," by Judge Walker of the Supreme Court.

Judge Walker, being absent, the report was read by James C. Jones at the request of the Chairman. The report was as follows:

REPORT OF THE COMMITTEE ON JUDICIAL ADMINISTRATION AND REMEDIAL PROCEDURE.

The nearest approach to an ideal state of society is where justice is evenly and promptly administered. History, philosophical speculations on government and legends attest this truth. We find it advocated in the Critias of Plato, alleged to have been practiced in the better administered Hebrew theocracies, and as forming one of the essentials of a perfect state in the Utopia of Sir Thomas More and in the New Atlantis conceived by that master mind of all ages that of Sir Francis Bacon. Wisdom is the fruit of experience; and these witnesses, although but depicting theoretical forms of government, drew their deductions from a familiarity with the history of the organized forces of mankind prior to and at the time they wrote, and each on his own account reached the conclusion common to all, that a prompt adjudication of whatever differences arise between men is most conducive to human happiness, and as a consequence, tends to the perpetuity of government.

Legends live and ultimately become the property of all men because they portray characteristics common to humanity. The longest lived and those which find a lodgment in the lore of every people, whether personalized in a Solomon, an Al Raschid, a Saladin, or some more recent ruler or dignitary invested with power, are those which center around stories of the wise and prompt administration of justice. Although seeming to rest in fancy, each will be found upon inquiry to have originated in some fact forming a part of the history of the land of its location, its perpetuation and adornment by fancy being due to the fact that it chronicled a truth.

History is replete with instances of the salutary effect of the prompt adjustment of differences whether they be those of nations or of individuals. Time need not be consumed, however, and space employed in generalizations on this subject or in the recital of trite platitudes to prove what every intelligent mind admits, that not only the happiness of individuals, but the stability of government, regardless of its form, is due in no small degree to the manner in

which justice is administered. Was it not said by the unknown author of Ecclesiastes in that compendium of wisdom that "Because sentence against an evil is not executed speedily, therefore the heart of the sons of men is fully set in them to do evil?" The application of the truth thus inculcated is appropriate wherever a wrong has been committed for which the injured is entitled to seek redress. With the general increase in intelligence and the consequent awakening of the public conscience, we are becoming more keenly cognizant of the ill effects of delays in the adjustment of human differences, which, regardless of their origin, can not but prove, in particular instances, a source of irritation and unhappiness and in the aggregate a menace to good order. Never more truly than at the present have we realized that justice delayed is justice denied, and that such denial is none the less a wrong, although indirectly inflicted by the State, perhaps by omission rather than by commission.

A world war and the attempted domination of all men by barbarians who first cunningly equipped themselves with everything deemed necessary to success except conscience, may for a time seem to lower the level of right thinking and right living, and thus threaten the stability of good government and tend to the increase of human misery; but these conditions can not continue. A better civilization will ultimately prevail, even if its prevalence is due to the arbitrament of the sword. This reflection is, by the way, however, and becomes pertinent only because the internal affairs of a country engaged in war are always more or less thereby disturbed, and the administration of justice as one of the most vital of a government's affairs suffers as a consequence. Although we are giving freely of our manhood and our treasure, that free government may be perpetuated upon the earth and that the pernicious doctrine of the "divine right of kings to govern wrong" may be obliterated with the destruction of the last monarchy, our internal affairs except by reflex action are little affected. Whatever delays may exist, therefore, in the administration of justice must be attributed to other causes.

While a concrete consideration of the general subject of the administration of justice might prove interesting, the occasion does not render it appropriate. Let us confine ourselves, therefore, to matters more nearly at home. An intelligent discussion of this subject demands a review, however brief, of the disposition of cases by our various State tribunals invested with the settlement of controversies of public or private interest. Our Circuit Courts, except in certain centers of population, are well up with their work and are not, as a rule, responsible for the ills which result from a tardy administration of justice. In the excepted locations delays, if prevailing, are due, first to a lack of orderly system in the disposition of the court's business; second, to a lack of discrimination, or it may be indifference manifested by the people in the selection of Judges; and third, to the tardiness of counsel in preparing their cases for trial and their reluctance in urging a speedy disposition of same. If the causes of these ills have been correctly diagnosed, they are capable of eradication without a resort to legislation. All that is needed is a determined effort on the part of the courts and members of the bar to bring about a better condition of things by employing the same character of judgment a sensible man exercises in the conduct of his own business or a wise board of managers or directors displays in the management

of a public institution or a private corporation. These be perhaps unpleasant things to say; and although we would, as our delightful Dr. Holmes said, prefer the while "to laugh with Hood than to scold with Ruskin or Carlyle," the truth forbids our speaking otherwise. If in thus speaking, some little reform may be wrought we are content, although an avalanche of criticism may follow. Our Courts of Appeals, except that at St. Louis, are well up with their dockets. In the case of the latter, the increase in the number of appeals has been such as to render it impossible for the court to keep abreast with its work. This is due primarily to the increase in litigation consequent upon an increase in population and wealth of the City of St. Louis. A practical remedy to relieve the court was sought at the last session of the General Assembly in the attempt to enact a law authorizing the appointment of a commission to assist the court in its labors. This relief was denied. Other alternative which would have afforded practical relief was not then apparent and is not now.

The condition of the docket of the Supreme Court demands attention. It is best and most impersonally presented by a statement in regard thereto, prepared by the clerk from the records, covering the year ending April 1, 1917. The whole number of cases on file remaining undisposed of on said date was 994. Of this number there were during the year 557 cases brought to the court by appeals and writs of error. Three cases, comprising two election contests and one proceeding for contempt originated in the court during the year as well as eight applications for writs of *habeas corpus*. There were 136 applications for other original writs, of which number 46 were granted. This makes a total of 704 cases of every character filed during the year. Opinions were delivered in 417 cases; 205 were otherwise disposed of. Of the 136 applications for original writs 90 of same were denied. Applications for the granting of original writs, sometimes based on merit, have grown apace during the last two or three years. The increase in the number of applications of this character is due perhaps more to the absence of well defined rules as to the province of these writs than to any purpose to delay the determination of cases in which they are interposed. This suggestion is probably more applicable to petitions for writs of *certiorari* than the others. It is appropriate in this connection to note the fact that while only 46 of the 136 applications for original writs were granted, a careful examination of the 90 applications refused, was necessary before they could be disposed of. No small part of the delay, therefore, in the disposition of cases coming from the trial courts in the ordinary manner is due to the time necessarily consumed in the consideration of applications for original writs. The remedy for this ill is apparent. It may be administered much to the court's relief by applying for such writs only when the right thereto is clearly evident and not when it is merely conjectural. There should be added as a part of the court's labor during the year, 36 cases in which opinions were prepared but were not delivered on account of transfers to *banc*. Regardless of the reasons for these transfers they are in effect rehearings. Aside from the fact that they retard the disposition of the court's business, they are in the majority of cases justified in reason and necessary to a proper administration of justice. Whether this be true or not they will continue as long as the court has divisional sittings and human minds reach different conclusions from a like state of facts.

From the foregoing it will be seen that the volume of work disposed of by the court during the year stated embraces 748 cases. This marks the disposition of a greater number than in any like preceding period of the court's history. Instead of the court being "more than three years behind," as was inadvertently stated in a formal report made by a special committee of this Association to the last General Assembly, it is now a little more than two years behind. However much we may congratulate ourselves upon this seemingly encouraging condition, we have no assurance under present conditions of its continuance or a shortening of the time between the filing of a case and its final disposition. This foreboding is based upon facts the state of which is their own confirmation. There is a limit to human effort, mental or physical. That limit, without exaggeration, has been reached by the court. Added hours of labor or an increase in the number of opinions written annually, if not impossible is certainly not desirable at the expense of that careful consideration from which only can flow right conclusions. While justice should not be delayed it should never be hurriedly administered. Either extreme can not but result in injury. Every intelligent lawyer, familiar with the labor necessary to the proper disposition of a case appealed to the Supreme Court, will bear witness to the fact that better results would be reached if the court were permitted to prepare its opinions with more deliberation. However much this may be wished, its consummation does not seem possible under existing conditions. The multiform phases of human activity incident to modern life, which becomes more complex as population and wealth increase, are fruitful sources of litigation. Such is the importance and magnitude of the issues involved that many of them will seek final solution in the Supreme Court. Add to this the constantly increasing volume of applications for original writs, the time necessarily employed in their disposition and thereby taken from that which the court would otherwise devote to its appellate business, and the delays incident to the transfer of cases from the divisions to *banc*, and we are confronted with an array of facts which justify the conclusion that while the court may by persistent labor maintain the pace it has made, it will not be able to improve on same and to use a cant phrase, "catch up with its docket."

Realizing the force of this fact prompts the inquiry as to whether there is a remedy. One simply cognizant with the condition and not with the causes creating it might glibly prescribe shorter opinions, which clearly state principles and conclusions without being burdened with lengthy quotations from other cases; and the refraining from lengthy dissents which serve, says the caviler, solely to gratify the vanity of the author and are read, and that but once, by the counsel of the litigant who lost. The ill is too grave, however, for such homeopathic remedies. Certainly it is a most excellent *desideratum* that an opinion be brief and that it contain little that is trite and nothing that is extraneous. Composition and style, however, are matters as variant as the minds of their respective owners, and an attempt to frame a Procrustean form within which all must confine their thoughts would be foolish and futile. Besides, it is easier, paradoxical as it may sound, to write a long than a short opinion. As to dissents, their occurrence is not sufficiently frequent to call for criticism.

Those who have given the subject a somewhat mature consideration have reached the conclusion that relief may be afforded without a violent change in our present judicial system. Briefly

stated, the plan proposed is to so amend the Constitution (Sec. 3, Amdt. 1890, Const. Mo.), as to not require all opinions to be written, to authorize the court by legislative enactment to frame rules of procedure, and to empower it to determine, in the first instance, whether or not appeals or writs of error should be granted. At the last session of the General Assembly a committee charged with the framing of a bill for the relief of the appellate courts, conferred with the members of the Supreme Court as to the course to be pursued to effect the purpose of the committee's creation. After a full discussion it was agreed that a bill should be prepared which, if enacted, would empower the appellate courts to determine the right of litigants to appeals and writs of error. One of the members of the Supreme Court, Judge Faris, carefully prepared a bill embodying the idea stated and it was introduced upon the unanimous recommendation of the committee and with the approval of the members of the court, but failed of passage. Other than this no plan has been proposed which seems to offer practical relief.

This Association representing, as it does, the collective wisdom of the bench and bar of the State, has, at different times in its past history, attempted to remedy the evils incident to a delay in the disposition of cases in the appellate courts. Resolutions plentiful as blackberries, have been passed; committees, consisting of earnest and industrious advocates of reform, have been appointed who have urged legislative action; and a concerted plan to change our judicial system has been attempted. All of these efforts, when presented to the legislature for its approval, have been rejected. To repeat them would be but to court further failure. The only feasible plan remaining, which seems slow in its processes, is the creation of a more enlightened public opinion, which, when created, will manifest itself in a change in the character of the members of the law-making power. Prompted by a desire to promote the public good the legislature may be influenced to enact a law that will enable the appellate courts to speedily and finally dispose of unmeritorious applications for appeals and thus remove and in the future prevent the delay in justice which now constitutes an unjust reproach to our judiciary in that it is in nowise responsible for the same.

The report was ordered filed and printed.

THE CHAIRMAN: The next matter in order will be the report of the Committee on Associations and Legal Publications, William A. Gardner, of Farmington.

This report was as follows:

REPORT OF COMMITTEE ON ASSOCIATIONS AND LEGAL PUBLICATIONS, by WILLIAM A. GARDNER, *Chairman.*

"MAXIMS ARE THE FUNDAMENTAL LAW."

Goethe said: "If we only knew how much we say is misunderstood by others, we would keep silent in society." This was an inspiration which is made still clearer by Emerson: "Who hears, who understands me, becomes mine, a possession for all time." Keeping this in mind, we note that Bacon wrote for posterity, when the

rivalry between himself and Coke had resulted in Coke's ascendancy for a time: "I am in good hope that when Sir Edward's (Coke's) Reports and my Rules and Decisions come to posterity (whatever may now be thought), it will then be seen which was the greater lawyer." The Coke system of reports has reached us and, in following it, we find ourselves in a maze of confusion and uncertainty. Although our juridical scholars have been making valiant efforts, there has been a general failure to reach anything like a satisfactory presentation of any plan by which the situation confronting us may be relieved.

While Coke gained a victory over Bacon, his triumph was not complete, for Bacon succeeded in establishing equity jurisdiction over common-law judgments, greatly to the chagrin of Coke. Equity, though relegated to a secondary place by both Coke and Blackstone, has been gradually gaining ground. Though it took until Mansfield's time before anything was really done to start the impetus which was to advance us to a realization of how much greater was the system of Bacon than that of Coke, the great misfortune which befell us was that the manuscript of Bacon's "Rules and Decisions" was lost, and no one endeavored to give us an understanding of what they would have been, had they reached us. Even Mansfield did not attempt anything of this kind, although having been a Doctor of Civil Law in the Edinburgh University, he saw how far it surpassed in its justice the Common Law of England. As soon as he was appointed to the bench, he commenced the introduction of the rules of the civil law to do away with the barbarisms of feudalism—the English common law.

That it was resented by the English lawyers of that time appears in the Letters of Junius, which contain an article by one of them, who, most likely, had been defeated in some case wherein Mansfield employed the civil law to enable him to do justice. Says the letter to Junius of Lord Mansfield: "He is fond of introducing into the Court of King's Bench any law which contradicts the Common Law of England, whether it be common, civil, Jus gentium or Levitical," and again: "We are both agreed that Lord Mansfield has labored incessantly to introduce new rules of proceeding in the court in which he presides; but you attribute it to honest zeal in behalf of innocence, oppressed by quibble and chicane. I say he has introduced new law, too, and removed the landmarks established by old decisions. I say his view is to change a court of common law into one of equity and bring everything into the arbitrium of a Praetorian Court." This gives us a good view of that which Mansfield had the strength of character to meet. Says Judge M. F. Morris, late Judge of the Court of Appeals for the District of Columbia and Professor of Law in the Georgetown University, in his work entitled "History of the Development of the Law," p. 274:

"In the works of Glanville, Bracton, Britton, Fleta, Littleton, Coke and Blackstone, we find the exposition and the development of the Common Law of England from the time of the Norman conqueror and the early Plantagenets, down to the latter part of the eighteenth century. Two events then occurred, which, according as we look at the matter from different points of view, tended either remarkably to accelerate that development or else to subvert the whole foundation on which it was based and to substitute therefor a radically new system of jurisprudence. One of these was the appointment of William Murray, Lord Mansfield, a Scot-

tish jurist and a doctor of the Roman Civil Law, to the position of Chief Justice of the King's Bench in A. D. 1756, a position which he held and filled admirably for thirty-two years, when he voluntarily relinquished it in the same year (A. D. 1788) in which our Federal Constitution was adopted and, during his incumbency of which, he, quietly and yet substantially, effected by his rulings in court an almost entire revolution in the common law, more in accordance with the requirements of our advancing civilization than were the tenets of Coke and Blackstone. From the Roman Civil Law, Lord Mansfield introduced into the Common Law the Law Merchant or Mercantile Law, and laid the foundation for the introduction of the Law of Bailments, to both of which the Common Law had previously been a stranger. And he paved the way for the great improvements of the nineteenth century. No other Englishman, except perhaps Lord Bacon, has done more for civilization than the Earl of Mansfield."

Says Judge Clarke :"As to the original side of the docket, little more than two centuries ago there were two hundred and four capital offenses. One charged with a felony was not allowed to have counsel to speak for him, nor process to procure his witnesses, nor could he testify in his own behalf, and when as late as 1835 an act was introduced to change this, thirteen out of fifteen judges of England protested against the innovation, and one of them threatened to resign if it was enacted. The law was enacted but the judge did not resign."

"Since then," says Judge Morris, "the work of reform, of elimination and substitution has gone on gradually but surely. Almost every salient feature of the Common Law of England has been banished from our social system and from jurisprudence. We have abolished the rule of primogeniture. We have abolished the invidious distinction between males and females in inheritance. We have abolished entails. We have discarded, as far as practicable, all the intricate incidents of feudal tenure—their name is legion—and they can not all be reached at once and possibly some of them are innocuous. We have restored to woman the management of her own estate and her right to contract for herself, which was secured to her by the Roman Law and denied by the Common Law of England. We have repudiated and utterly rejected the barbarous and inhuman penal branch of the common law and have legislated on the subject independently of the rigid demands of feudalism and more in accord with the more reasonable regulations of the Code of Justinian. In brief, we have been solicitously and constantly engaged in undoing the work of the Common Law which Coke and Blackstone declared to be the sum of human wisdom and which the humanitarian now is almost ready to declare to have been the sum and consummation of human infamy."

But, though Mansfield's efforts opened the door to the civil law which came in like a flood to remove the barbarous laws of the feudal system, it is a hard thing to move the impressions of habit, and, while England changed much of the old common law of procedure to keep up with the growing civil law and sixty-five years ago introduced a new code of procedure, the Judicature Act, which is based on methods introduced from the civil law, which eliminated the old English forms, England still clings to the very thing that Bacon hoped to provide against in his Rules and Decisions, that is to say, its system of reports, which is essentially Coke's system.

While, in a perfunctory way, our lawyers of today hear that the Romans had a genius for jurisprudence that far surpassed that of any other race, it is very difficult for us to realize, in this day of scientific progress, that over twenty-five hundred years ago there existed in Greece and Rome a civilization that in many things far surpassed our own. We have plenty of lawyers who think that the Romans are back numbers as compared with our age in the matter of jurisprudence; whereas, as a matter of fact, we are not to be compared with them. We hear that Bacon is regarded by as great an authority as Macauley as the greatest of all philosophers, but how little do we heed it. We know that he gave more time to the philosophy of the law than to any other branch of it; that he would have given to us the civil law in his "Rules and Decisions"; that he left us for equity procedure one hundred rules, which have been in use in the English Courts of Chancery ever since just as they came from the hand of that great master, and these same rules are used in our own Chancery Courts, both Federal and State.

Yet, how little are our lawyers, in general, moved by the thought that our equity is but the civil law or that Bacon accepted the civil law fully. All that Bacon desired to add was a system of decisions which would have shown the practical use of the maxims and be an aid to a judge in rendering his decisions. In this he expected to add to the stability of the law. He expected his "Rules and Decisions" to come to posterity, so his system must have been complete, for he knew that the greatest of all jurisprudents had advised that "It is better to seek the fountains than wander down the rivulets." He saw that the Coke system was one that wandered down the rivulets. It was wrong on principle.

All Europe has adopted the civil law. England, though it has not done away with Coke and Blackstone, has made the Civil Law of Rome the Common Law of England. England still feels the need of further reform, for she clings to the old fetish of following precedent even though its greatest philosopher of the law told her very plainly when he proposed to have decisions as a part of his system, that the precedents they should follow should be fixed.

Let us learn from the greatest jurisprudents the world ever knew. In Justinian's time, there existed much the same condition in regard to the law as we have today, though in a different way. In his time, there were about forty different authorities of nearly equal dignity, and the conflict to these authorities had brought confusion into the affairs of the Empire. No lawyer knew when he would meet with an authority of equal dignity with the one upon which he relied, and the judge was in a predicament as to which he should honor. Says John Lord in "Beacon Lights of History," Vol. III, page 49:

"Justinian thereupon authorized Tribonian to prepare, with the assistance of sixteen associates, a collection of extracts from the writings of the most eminent jurists, so as to form a body of law for the government of the Empire, with the power to select and omit and alter, and this immense work was done in three years and published under the title of the 'Digests and Pandects.' This body was directed to avoid all conflicts of the authorities." It was at first decided to give ten years to the work. It was a shame that ten years could not have been given to it, but the need for a reformation of the laws was so great and causing so much discontent that the work was rushed through. McKenzie says: "While

it is badly arranged, as was to be expected from the haste with which it was compiled, it was all there, however." Most of the work was done by one man—Tribonian. It has already been proposed that we let the Federal Government lead the way and follow the Baconian idea of Rules and Decisions.

Let us consider the condition which confronts us here in Missouri and ascertain what publication or publications most vitally need attention. In the first place, we have nearly five hundred Missouri Reports, which are increasing in number all the time; then, we have the West system of ever-increasing conflict of opinions, let alone all the other tooted law books. They are the result of the Coke system. Our book shelves are constantly increasing and there is no end in sight. This is the result of following down the rivulets or following precedents.

Let us now stop to consider what would have been the result had our country been blessed with the system of Bacon. It would have been our system of equity, together with a system of reports complete. Every state would have had the same system; there would have been no conflicting opinions between the states; the expense would have been done away with which the jury system entails. The thousand and one rules that are necessary to prevent the jury from being misled would never have been heard of and thus the most prolific source of grounds for appeal and reversal of cases would have been cut off and at least half the time and expense of the trial of cases would thus have been eliminated. The cost of keeping up books in the offices would be wiped out practically; our judges would become familiar with every decision; every decision would show the reasons for the law; our judges would be jurisprudents, instead of automatons trying to find the last case, for the cases established by the Bacon system would show the reasons for the law. We would have a learned profession, the courts would be always up with their dockets and many other advantages would result to us. For example, take our divorce suits filed here in St. Louis. A divorce suit is nothing more nor less than a proceeding in equity to rescind a contract. Supposing every divorce suit required a jury for its trial; just stop to think how much time and expense would be added to the trials of our cases. Here is a fair consideration of the difference between the Coke system and that which Bacon intended for posterity.

If what I say is true—and every lawyer who will but stop to think will not deny the truth of it—we then have a proposition which would not take a business man a minute to decide. In talking with Judge Lamm a few days ago, he was deploring the loss of prestige sustained by our lawyers in the last twenty years. Is it any wonder that business men lose confidence in lawyers when such a shameful condition of "due process of law" is permitted to exist as is now the case? The lawyer, of course, is held accountable for it all. The lawyer holds a most important position and much of the integrity of the state and nation depends on *his* integrity; so, it behooves us to bring all our power to bear on the reformation of our laws in the present crisis. The course we are suggesting, I respectfully submit, is one that should meet with the approval of every lawyer who holds his honor above the betrayal of his trust. So I say, let us proceed to the fight we have before us (for I firmly believe the Baconian system is coming) with a most solemn and determined mind not to be outdone by

those who will unite to protect their own selfish interests. The law book trusts, which have grown rich and powerful because of the conditions which now exist, will fight to keep them alive; they will scent the danger quickly and I should not be surprised at the presence of their emissaries at this very meeting. Let us be on our guard and united with the Bar Association of the Nation, stand firm and press the battle of reform, as patriots, for due process of law is government itself. The whole country demands reform. The safety of the nation depends on how we use this present. No nation can long survive an unsatisfactory condition of its laws. Those who have reached a condition of luxurious ease by following a certain line of business judge the right of a matter only as it benefits themselves and would not hesitate to hold on to their possessions, though it were to disrupt the common good, for it would seem that the controlling sentiment of many of our business successes is in line with the gambler's motto: "Never mind what happens so long as it does not happen to you."

Mr. William Draper Lewis, in an able address delivered in St. Paul in 1906, after stating that the functions of the legal profession are to administer justice, says: "Whether at any particular time or in any particular country that particular service is being performed must be tested by the answers to the facts of these questions: First, are ethical standards of the members of the professions clear and tending to improve; second, does the law, whether expressed in the development of 'cases' or legislation tend to correspond with the felt sense of right in the community; third, is the law administered with reasonable certainty of dispatch." Mr. Lewis' conclusion was that "our failure to perform the service is almost complete." Commenting on Mr. Lewis' remarks, the Central Law Journal of December 21st, 1906, says: "But to be really effective, the whole bar of the land should be roused as the years advance. Is a lawyer fit to belong to a profession and regard none of the duties which he owes to that profession? If the whole bar would awaken to the fact that each member of it owes a duty to his profession, the selection of the material for the judiciary would be completely in the hands of the lawyers who are best able to judge of the material with which our various benches should be composed."

The great truth involved was well expressed by the poet:

> "He is true to God who is true to man;
> Whatever wrong is done
> To the humblest and the weakest,
> 'Neath the all-beholding sun;
> That wrong is also done to us,
> And they are slaves most base
> Whose love of right is for themselves
> And not for all the race."

This represents the very spirit of the civil law.

It is encouraging that we have so good a representation of our bar here today; but how many are there over the state who take no interest whatever in our bar meetings, or in the reforms which are needed in our profession in order to advance the public welfare. Let us proceed to make the motto of our state effective: "The Public Welfare is the Highest Law." Our Association must exert itself to bring such an influence to bear over the state that

not a county shall fail to have a credited representative at our meetings. The County Bar Associations should be roused to greater action and the members of them should be inspired with truer ideals. The welfare of the state and nation is in, more than any other class, the hands of lawyers and always has been; yet, we see the wand of our influence slipping from our hand and the business man taking the place, for which, in the nature of the undertaking, the lawyer, if properly educated, is more fitted, all because the business man has lost confidence in the lawyer of today.

Our present method of electing our judges is most unsatisfactory to the people in general, but no more so than to the lawyers themselves. In Massachusetts, we find that they have a method which is worth considering: Let the Bar Association, with great care, select from its number the material best fitted for the judicial offices; let the number to be selected be fixed; let the names so chosen be published, so that all may know who they are, thus giving opportunity for objections to any that may be shown to be unworthy; then, with the co-operation of a committee from the State Bar Association, let the judges be appointed by the Governor from the list so prepared. Divorce the selection of the judiciary entirely from politics. Have the number of those whom the State Bar Association may deem worthy of judicial honors always filled. If, after appointment, any should prove unworthy let his name be dropped from the list. In this way an intelligent recall should be secured.

In our present method, the poor man has a very bad show and especially when he proceeds against a rich corporation. The corporation hires its lawyers by the year and selects only the best of them. It is their business to get error into the record and appeal the case; the long time it takes for an appeal to be heard and the cost thereof, prevents the poor man in most cases from obtaining justice; the hazard is too great. A gentleman once said to me: "I have just had a suit brought against me by an irresponsible party. It involves the title to my property; it will take three years or more to get through the Supreme Court; the land is kept out of the market for the suit to be settled. Such a condition means nothing but blackmail, for I am sure my title is sound." Surely such a condition leaves the door open for blackmail, to say the least. Not long since an English law journal raised a great row because a case took nine months to reach the Court of Appeals there. It was regarded as a scandalous delay. In England the bar is held in the highest esteem. We would consider ourselves blest were the conditions here as they are in England. While the question as to how we are to reform our laws becomes most important, in our experiences with the legislators we are made to dread the ordeal.

About three years ago I met Judge Hardy, of Pass Christian, Mississippi, and he told me of his experience in that state, when he, with Judge Whitfield, and another in whom the Governor had confidence, had been appointed to draft a code for that state. Judge Whitfield was one of the most distinguished judges who had been on the Supreme Bench there. The code was drafted on the lines of the Code Napoleon of Louisiana and went to the Legislature. Judge Hardy said that, after the Legislature got through with it, it was a sight to behold. He said that Judge Whitfield's remarks when it came back to them from the Legislature would not be suit-

able for publication in the newspapers. Are there some present who have a fellow feeling with Judge Whitfield?

It seems to us, in view of the fact that one of the great objects to be attained by our efforts for reform is to secure uniform laws throughout the states, we should co-operate with the Federal Government in securing its system, for then the states would have a better chance to enact uniform laws. In bringing the matter of code reform before Congress it would be a very different matter to bringing it before a state legislature and the chances of getting something really worth while would be vastly improved. The acceptance of good reform by Congress would give the reforms such prestige that when brought to the state legislature they would be much more likely to be accepted without quibble.

The day of Bacon is at hand. Already we find leading men of the east and west moving into line. Chicago is impregnated with it. The law schools are beginning to wake up in Chicago. I received a letter from Mr. Charles Capen, of Bloomington Law School, a graduate of Harvard. He had read "Bacon's Lost Rules and Decisions" and he said, "It is new, but it is on the right lines." Mr. Hughes declares that we could put our law into forty volumes and cover the body of it. Just think what it would mean to the Missouri lawyer to do away with his ever-increasing products of his courts of appeal and be established on forty volumes fixed, that the Missouri lawyer would know the laws of every state and of the Federal courts. If you should attempt to take from the Louisiana lawyer his civil law you would attempt to take from him his dearest possession.

The foregoing was written to be read before the Bar Association at its last meeting. The following is an answer to the question asked by Judge Lamm—not intended with any hard feelings against those who are in charge of the affairs of Harvard today. Harvard gained a reputation that no other law school in the United States possessed, during the period of Story. We never had such a galaxy of great lawyers as then and this continued until Story's death. But not very long after that Harvard began to throw down the very things which Joseph Story honored and set up. It became a saying of the Harvard students, which is continued to this day, "To hell with the maxims; they are misleading." The result has been that the law of Marshall and Story has been consigned to the very place to which those coming after Story consigned the maxims. We do not wish by any means to attack Harvard during the time of Story, but, on the contrary, would be understood as holding her up as an example to future generations. What we want to have understood is that we should follow Story who respected and did honor to such men as Bacon, who honored the maxims. In his Equity Procedure, he sets out the one hundred rules of procedure which Bacon prepared for posterity and which have been revered in England ever since they came to the hands of their jurists.

In the first place, the maxims were the foundation of the Republic of Rome. They were made for the very purpose of keeping the laws of Rome harmonious, for it is true, as stated in one of the maxims, "It is better to seek the fountains than wander down the rivulets," a fundamental principle undoubtedly laid when the Republic of Rome was first provided for. But Harvard has not been keeping this maxim of late; instead of "seeking the

fountains" where they would have found Story, they have been "wandering down the rivulets."

The argument is sometimes made that the Romans at the time of the organization of the Republic of Rome were so crude that they could not have produced such a system as the maxims. This is ridiculous in the light of Judge Morris' history, which says: "Like the sun at noonday was the civilization of the Greeks among the civilizations of the world; never before and never since has there existed on this earth a people more energetic, more enterprising, more artistic, more literary, more philosophical, more cultured in all of the departments of human knowledge than the Greeks of classic story—more properly designated by them in their own language by the name of Hellenes—and from this comparison I do not except any nation, even of the nineteenth and twentieth centuries. Never before and never since have there arisen such poets as Homer, Pindar, Sappho and Aeschylus, with whom only Dante and Goethe of the modern world may be associated; never before and never since have there been such orators as Demosthenes and Aeschines, such philosophers as Plato and Aristotle, such historians as Herodotus and Thucydides, such helpers of men as Pericles and Epaminondas, such brilliant women as Aspasia and Hypatia, such sculptors as Phidias and Lysippus, such painters as Apelles and Parrhasius, and such scholars as Aristarchus and Demetrius Phalereus, so many men illustrious in all departments of unusual activity." And this was just at the time when the Roman Republic was established. In the time of such civilization was the Roman Republic born. The Roman mind has proved to be the best that the world has produced in jurisprudence.

Let us examine history further and see what kind of men were produced in Rome at this time. On page 175, Volume II, in the "Great Events by Famous Historians", we find this: About B. C. 280, when the first conflict between the Greeks and Romans occurred, Caius Fabricius came to arrange terms of exchange of prisoners, a man whom Cineas said the Romans especially valued for his virtue and bravery but who was excessively poor. Pyrrhus, in consequence of this, entertained Fabricius privately, and made him an offer of money, not as a bribe for any act of baseness but speaking of it as a pledge of friendship and sincerity. As Fabricius refused this, Pyrrhus waited until the next day, when, desirous of making an impression on him, as he had never seen an elephant, he had his largest elephant placed behind Fabricius during the conversation, concealed from him by a curtain. At a given signal, the curtain was withdrawn, and the creature reached out his trunk over the head of Fabricius with a harsh and terrible cry. Fabricius, however, quietly turned around, and then said to Pyrrhus, with a smile: 'You could not move me by your gold yesterday, nor can you with your beast today.'"

Such was the character of the ancient Romans, who, in B. C. 551, gathered the maxims and wove from them a logic and a philosophy for all ages, amidst the civilizations which were so far ahead of anything we now have that they put us in the shade.

It seems to have been an inspiration when Alexander Hamilton saw, in the study of the maxims, a study of government, for the vision which came to him must have been that the maxims were the Prescriptive Constitution of the Republic of Rome, and the same might be said of John Marshall when he read the maxims into our Constitution.

David Dudley Field, after writing his code for New York, said: "The Roman still holds dominion over this world by the silent empire of his law." But, when the judges of New York began to interpret his code, he was nearly heartbroken. Judge Barclay told me that he heard his lament when Field was present with the American Bar Association for the last time.

It is well to consider that during Story's time there existed such men as Webster, Shaw, Greenleaf, William Pitt, Fessenden and many others whom we might mention, all maxim men—and now to hear from Harvard, "To hell with the maxims; they are misleading!" By not being taught the maxims as a part of government, it is certain that the lawyers of today have lost, in consequence of such teaching at Harvard, and all the law schools which have followed Harvard, the very thing that made Hamilton, Marshall and Story great. How can graduates of Harvard or of any other law school hope to make laws for the country and bring about reform, when they know nothing of the fundamentals of government except as it is taught in their fundamental cases? It is such men as these, uninstructed in the fundamentals of government, who wish to bring about a reformation in our laws by the introduction of a new jurisprudence, of which we have been hearing so much by orations in the American Bar Association, wherein a new case system is announced to "Teach lawyers to think not only in the terms of law, but in the terms of jurisprudence as well." From this we may infer that we will yet see fundamental cases and statutes.

It should be clear to every thinking man that if Sir Francis Bacon saw that it was necessary, in order to reform, that we go back to the civil law, and if Lord Mansfield, who was a civil lawyer, the man in England next to Bacon, introduced the maxims into the law in order to secure congruity, harmony and uniformity, and if the European countries and all others that can be called civilized have adopted the civil law, we should be in line with those civilized countries, which have established courts and given them records and a cardinal rule that they are bound by their records—that the *allegata et probabata* must correspond, which seemingly is denied in *Dean v. Davis*, 242 U. S., pages 435-447, wherein it is held that the *probata* may supply the *allegata*, and also that the bill in equity need not state all the material facts; a doctrine which was broadly spoken for by a prominent and popular author, Judge Seymour D. Thompson. We are also instructed by the orations referred to that we can not reaffirm the old law as other countries have, for the reasons that "all our instincts are against it." Any one who does not reverence the maxims is incapable of producing a jurisprudence equal to that of the Romans, or sufficient to take the place of that of the Romans—he is a misleading empericist. One guilty of such an assumption can not be imbued with the maxims or he would recognize that they were government itself, whence our due process of law has come.

For a long time, France and Germany and other European countries have found the maxims amply sufficient for their needs. Their guide is, *Regula pro lege si deficit lex* (where the law is deficient the maxim rules). We hear men talking sometimes as though they thought the needs of America far surpassed those of Europe. America has need of universal law that will support commerce and advance civilization. England has been reforming, but all

her reforms are in line with the civil law. The profession is indebted to Justice Holmes for what he said in *U. S. v. Oppenheimer*, 242 U. S. 35, 38, where he held that reaffirming former jeopardy in the Federal Constitution made no difference, for without that we would still have *res adjudicata* from the "civil law." If so, consider what the civil law gives us for procedure. Now do we get "from Great Britain our modes of thought and our procedure?" Such a surprise, however, as has been sprung upon us by those who know nothing of the maxims can not be countenanced for a moment by those who are learned in the logic and philosophy of organic law. Fortunately, these maxim men are coming to the front at this time and law schools are commencing to see that they have made a great mistake in following the teaching which Harvard has been promulgating since the days of Story.

Our law schools, environed by the feudal spirit of Coke and Blackstone, have been trying to "grow grapes on thorns and figs on thistles." Not one of them has seen that equity is the true jurisprdence which is bringing in "the perfect day." No great thinker has been developed in our schools. What great principle has come from the feudal law?

Marshall in *McCulloch v. Maryland* saved the union when he decided that the creator of the creature gave by implication the necessities of its existence. In other language, he decided that the law of necessity is supreme—*necessitas inducit privileguim quoad jura privata*. He decided that a principle power carries with it its necessities, these to be picked from the law of sense and reason —the "condensed good sense of nations." When we reason from these we can throw away the great masses of cases and statutes that confuse and bewilder, and so meet the views of Senator Root, who in 1916 spoke for an amplification of judicial power so that courts could administer justice and protect the matters for which they were created upon first principles. To illustrate his idea we will add that a "new nation" has come and that for its usefulness it must throw off its hampers of feudalism so it can meet the reincarnation of Attila and his Huns. For this necessary powers must be conceded the government so it can act without regard to its swaddlings of feudalism, which must be treated as "scraps of paper", when we have to grapple with a despot that treats his treaties as such. His assaults upon common rights, humanity, civilization and its means by the law of the *lex talionis*. For these ends we have had to pass from the "Republic into the Empire", and as is observed by those who see and speak as Caesar and Cicero spoke in their struggle for "Democracy against" the way of a treasonable Senate. Now our crisis is almost like the one that the Roman met two thousand years ago. "History repeats itself." Our "new nation" is here and it must advance and fill its mission; for this it must be accorded necessary powers. These do not depend on statutes—local and fiat law, and their cases, but they depend upon the greatest gift of antiquity—the Prescriptive Constitution. From this we pick *salus populi suprema lex*, a part of which is the law of necessity above mentioned; also this maxim: *Receditur a placitis juris potuis quam injuriae et delicta maneant impunita* (positive rules of law will be receded from rather than crimes and wrongs should remain unpunished). The great and leading principle we next quote: *Regula pro lege si deficit lex* (where the law is deficient the maxim rules). Here are the prin-

ciples from the old law upon which the "new nation" can be operated without regard to statutes.

Apply these principles to the crisis of today caused by the treason and intrigues that have been resorted to by the "Huns", both foreign and domestic, in our land today. Look at their crimes and trail of horror and destruction and see if they ought not be called to an accounting and if found guilty should not they be deported to the land of the potentate they are serving as "Huns and Vandals"? Look at their operations to destroy this government and at the above principles and see if Root, Kent, Hamilton and Bishop are not right. Is not the old law sufficient to protect against the crimes and wrongs of all ages? *Regula pro lege si deficit lex.*

That Mr. Hughes is not only a deep thinker, but one who knows the world's history and philosophy and understands Bacon and his jurisprudence so well that he is able to reflect it in its native brilliancy, is not the belief of the writer alone. Mr. Hughes would have been recognized long ago but for the modesty of his environment, which has kept him from a premature ripening. But today, in the very fullness of time, he comes in the perfection of ripened wisdom. Everything that Bacon did in jurisprudence was inspired by the spirit of the civil law, which, to our mind, is the greatest tribute which could have been paid it by one person. But while other nations have been crowning the civil law with laurel, the juridical undertakers of most of the states of America have been wallowing in bewilderment of precedent and prejudice. "Science moves but slowly, slowly creeping on from point to point"; but the wonderful progress in new fields of science is helping to clear away the prejudice in older fields and the breadth of our vision is widened by a better understanding of the past. With this awakening, we see a hope for the future never before given to mortals. We feel confident that America will soon arrive at the front in jurisprudence now that we are being driven to an acceptance of the civil law *in toto* by the rapidity with which all nations have adopted it since the advent of the Code Napoleon, and more particularly in view of the juridical awakening which is taking place. The adoption of the same system of jurisprudence by the nations which are already the prime factors in the business world, requires a universal system such as Mr. Hughes has again brought to light.

As the oppressed nations of antiquity extended implorations to the protector of civilization on the banks of the Tiber, so modernity extends its appeals of distress to the Western Rome in the days of their horrors and terrible sufferings. And they have not implored in vain; see the financial and martial aid that has been poured out and is rushing to save them from the slavery of absolutism. They will now expect of us a great universal law, the bulwarks of freedom and protection. Shall we give them this or shall we give all that we now have—Judicial Anarchy?

Judge Stafford, formerly of the Supreme Court of Vermont, and now of the Supreme Court of the District of Columbia, says of the work of Mr. Hughes:

"It is the fruit of a long lifetime of study and reflection, of a wide knowledge of cases and rare skill in the use of them. You have cast into brief, logical and philosophical form the real substance of the law, the law which survives from age to age, and, in its essence and reality remains the same. Hence your work is not

local or provincial, but cosmopolitan. It is for the world, wherever man inhabits and commerce runs. You have wrought upon the model proposed by Sir Francis Bacon three centuries ago, and, with vaster materials to master and arrange, it appears to me you have performed the task as he would have had it done.

"Perhaps the greatest service you have rendered is by making plain the great gulf fixed by reason of the needs of government between the mandatory and statutory records. You have been the first to adequately state and defend the ground upon which that distinction rests and to show that free, constitutional government itself is bound up with the essentials of procedure—that as the law arises out of the facts, the facts must also appear that justify the judgment—that the interests of the state require it and that parties can not bargain it away. This is the great forgotten truth that you have brought to light and have illustrated with a clearness of comprehension and a wealth of learning that entitles you to rank with the greatest of legal authors. It is the cry on all sides that the law must be restated. In my humble opinion you have done it."

We do not see what more need be said to show that we have in our midst the man for the occasion.

The long, long delays under our common law system in many cases resulted in a practical denial of justice. Particularly is this true with respect to the poor. But, with the advent of the system of Bacon's Civil Law, explicated by Mr. Hughes, we may hope to achieve the noble aspirations of Lord Brougham, of which he said: "It was the boast of Augustus that he found Rome of brick and left it of marble, but how much nobler will be the sovereign's boast when he shall have it to say that he found law dear and left it cheap, found it a sealed book and left it a living letter; found it the patrimony of the rich and left it the heritage of the poor; found it the two-edged sword of craft and oppression and left it the staff of honesty and the shield of innocence." This is the condition that confronts us today. Our own Federal Government needs the simplification of its procedure in just such a way as is proposed by Mr. Hughes, who but sets forth the Baconian idea. Every scholar will be interested to know that it has now been shown with certainty by Mr. Hughes what it was which Bacon wished to leave to posterity. With the acceptance on the part of the Federal Government of such a system it would but need its acceptance by the states to secure a uniform system of jurisprudence fit for the world's acceptance.

It is in this way that we are being prepared for the federation which for the good of the world "must needs be" when the war in Europe has ended. It is but a part of the plan which in an ever "increasing purpose" has been running through the ages. It is a matter of the deepest significance that while the barbarities of war seem to have set us back for centuries, it is yet nevertheless true that never in the history of the world has there been given such consideration to the Word as found in the Bible, as is now being given to it. This means that the time is at hand for the rule of the people the world over. It means that imperialism, commercialism and militarism are being discovered to the people of the world in all their hideousness. It means that a power is working in them through the Word to establish all nations on the basic principles of humanity and justice laid down in the Scriptures and which are also proclaimed by the civil law in the maxims of

equity. "Live honestly, injure no one, render to every one his due." This also was the Law of Moses and is the Law of Christ. How wonderful are the evidences of the inspiration of Tennyson in "Locksley Hall", where he says:

"I doubt not through the ages one increasing purpose runs,
And the thoughts of men are widened with the process of the suns.
For I dipt into the future, far as human eye could see,
Saw the vision of the world and all the wonder that would be
Saw the heavens fill with commerce and there rained a ghastly dew
From the nations' airy navies grappling in the central blue.
Till the war drum throbbed no longer and the battle flags were furled
In the Parliament of Man, the Federation of the World.
There the common sense of most shall hold a fretful realm in awe
And the kindly earth shall slumber lapt in universal law."

Mr. Pike, for the Committee on Legal Education and Admission to the Bar, thereupon made the following report:

REPORT OF COMMITTEE ON LEGAL EDUCATION AND ADMISSION TO THE BAR.

The excellent report of our predecessors to the last session dealt so fully with the subject assigned to this committee that we do well to refer to it here and commend it, especially to those preparing for the bar. We think the legislature has prescribed a sufficiently high standard of legal learning and skill required for admission to the bar, and has shown a sympathy with the effort to encourage students to qualify themselves for admission by pursuing a long course of systematic training, which is now best obtainable in approved law schools.

Your committee is not agreed upon the subject of the literary or preliminary education a student should possess. Some are strongly of the opinion the minimum should be raised to such as is obtained by a graded high school course; while others believe that the handicap of illiteracy, or an inadequate preliminary education will itself guard the bar and the public against incompetency, especially with the aid of the present system of bar examination.

We do not think it advisable or desirable to urge the legislature to prescribe an exclusive method of acquiring a legal education. The support of the bar would be far more unanimous, and if the bar gave an unanimous support, the lay public is averse to a step which might lead to making the entire profession a too select class or guild. The practice of the profession is so intimately related to the social and economic life of the people that they justly esteem the bar a popular institution serving them in a sense in a public way, as well as in their private affairs. There is an instinctive popular apprehension that the danger of allowing govern-

ment to have the exclusive control of the method of supplying the bar is as great in one age as another. Very early in the history of our legal procedure, when the art of letters was confined to clericals who, from necessity were then wont to perform the office of attorneys in later times, a bitter controversy arose over the separation of secular from spiritual jurisdiction, and as the secular authority prevailed, the church in retaliation, forbade its clericals to meddle in secular courts. Substitutes from the laity in some way came forward in the course of time to render this service and from them the bar has developed. Training for the bar has not been uniformly exacting, and it is familiar to readers of legal biography that some of the most accomplished lawyers have been produced when the requirements were very loosely observed. From a very rigid and laborious course in black letter lore, it fluctuated to eating and paying for twelve dinners with the benchers, and in some exceptional localities to the knack of practicing the art of compounding liquid refreshments. Besides, the rare instances of self-made lawyers doing great and lasting service to society, afford a very human reason for not closing the door to any one who may now rise by the same method. The average citizen is not sure he will not be needed. He is unwilling to allow his lawyer to grow away from him. This does not argue that the public is indifferent to the necessity of legal learning and skill; it approves and supports all ways of acquiring the highest learning and skill, and will close none.

We find it very desirable and earnestly urge that the bar should take a more direct and active interest in legal education, and that the association should find a way, by a committee or otherwise, to co-operate with established law schools. Many able lawyers take time from their practice to give instruction in the schools, and their service in that way is most valuable. But there should be more active participation throughout the state in all the schools; in the way lawyers always serve, with a desire to help, not to criticise. For active practitioners to mingle with students, discuss legal problems with them, and illustrate the application of the law in administration, would go a great way to supply teaching the art of practice in respect to which law teachers confess the schools are deficient.

We are unable to concur with those who are very persistent in urging that the legal should be put on the same footing with the medical profession, which is strictly regulated by the state. The professions are so obviously different in the nature of their sciences and in their relation to the public and to those they serve, that one does not parallel the other. A citizen is willing, and insists, that his right to his seisen, or his liability for a tort, or in *assumpsit* and the like, shall be debated in public, and examined at large; everybody must have liberty to discuss his cause for to everybody he may take an appeal when defeated. He has to submit to an authority which the political power of which he possesses a part has provided him, and the wisdom of delegating the authority in the particular way, as well as the wisdom of the exercise of the authority, may be, as it often has been, reviewed by the body whence all political power is derived. When, however, a diagnosis discloses that to save life his appendix must be removed, his surgeon must know precisely where to cut. His physician must be able to discover what germ causes his illness, and to know what drug will arrest its course *now* without waiting for the *post*

mortem. This may be an unprofessional aspect of the two professions; but to consider both as deserving the same regulation by the state overlooks the fact that our science is popular, having its source in custom, matured and settled by experience and reason. In a way, distinct from their General Assembly, the people are legislating all the time. They adopt for their law, the title given at first invidiously; the law of the common people—of the commons—the common law. They have attained a state of civilization, where, says a great social philosopher, they "will be governed by no law but that of their own making". The consciousness of the right of self-government may be referred back to the dawn of our race, which we call generically the Anglo-Saxon; for its political genius has dominated all the peoples assimilated with it. This motion or claim of popular right has cropped out along the course of our history and before popular rights were defined, and at times has been asserted against rulers with tremendous force. The demand for the Petition of Right was led by a lawyer who had said when a judge that the "common law doth control acts of parliament and adjudges them void when against common right and reason." How our constitutional organization makes that declaration true by removing it from the realm of controversy is familiar legal knowledge. Through the jury of laymen the law is enforced, and it must be reduced to their comprehension to be intelligently and justly applied. If the charge shoots over their heads, it is not law. The law is declared—not made—by the courts, because it is so generally known they can take judicial notice of it. It is self-grown. It was at first proved and found as a custom. Lord Brice says: "It came not from above, but from all around." The growth and adoption of the law merchant as a part of our system is a modern illustration of the way the more ancient common law came to judicial knowledge. To make it inflexible and rigidly exact and embalm it in a code, or consign it to the knowledge of a few specialists, would sever it from its source and vitality. In his introduction to Rolls Abridgment, Sir Matthew Hale said:

The common law is not "the product of the wisdom of some one man, or society of men, in any one age; but of the wisdom, counsel, experience and observation of many ages of wise and observing men."

Its growth is not cultivated by one man or a society of men; the wisdom and experience of all men in all conditions and times are engaged in the process. It would cause alarm if government should ordain that the law is to become occult, the knowledge of it to be possessed by and obtained from a few learned doctors alone, whose ambition and interest would be to make the law more and more difficult to comprehend. Our people have an inherited aversion to being *ruled* by wisdom and authority foreign to themselves. They welcome and heed the counsel of the wisest and best, but are jealous of the first step the wise and good may take toward a usurpation of authority over them. The lawyer putting his special learning and skill, though not very profound, to honest use, is a most valuable member of society. It is better we have many not so learned and skillful than but a few exceedingly learned and skillful. The law which the student wants to learn to enable him to practice is after all the law as those in active practice know and understand it to be; the law as it is, and not as it ought to be according to the theory of "one man, or society of men, in any one age." We think the law school should attract the student,

rather than the student should be driven to the school of law. It would be better for the school and for the profession. The advice of the bar is that the student should take a full course in an approved school. He will receive a systematic training he can not have elsewhere—even in a law office. The best and the most he can get from the school will be but the beginning as will be dawning upon him ever after. And while we so advise, we would not shut out the rare young men who may worthily reach the bar by another route.

In this country the law has been a popular study and in earlier times was pursued by a more extensive class than in this day. In the decade before the Revolution more copies of Blackstone were sold in America than in Great Britain. Mr. Jefferson thought it was an unsafe book to put in the hands of an immature democrat, but the treatise never corrupted a lawyer's politics. General Gage reported that all the colonists were "lawyers or smatterers in law", and Mr. Burke, who was well informed about them, said these colonial lawyers were "acute, inquisitive, dextrous, prompt in attack, ready in defense, full of sources. * * * They augur misgovernment at a distance; and snuff the approach of tyranny in every tainted breeze." Their descendants have the same keen scent, and could tell at its incipiency the profoundest meaning of the present war, and divine the real purpose beneath the hypocritical pretext alleged in justification of it. They know the seriousness of the conflict, and now our own nation is involved, support every act and measure of the government in prosecuting the war. The educational value of the war will be prodigious. Knowledge indifferently left to the few will be possessed by the many. A vastly greater portion of the nation will have learned how the things are done. We must not neglect our part in discovering and destroying germs that may inflict disease upon the public. We are giving or asserting in giving professional instruction daily. "Before the war" it was a too common thing in this land to hear from men of respectable character and sincere opinions, much like the following, which was uttered through the press by the head of a university in a neighboring state: "The German Government is the most successful government the world has ever seen." "Would the German people trade their respect for law and authority for our disregard of the same? Would they trade their enforcement of law for our scandalous miscarriage of justice?" "Let us be sane and we will see that our sympathies should be with the Teuton race in this struggle." While the professor may be prejudiced, his position requires us to concede his sincerity. He must prefer everything Teuton to anything American, and being a capable man he can teach frankly or insidiously his evident belief that it would be a wise action if we could transfer our allegiance to the government and amalgamate with the people that have this fascination for him. To estimate a man, assign him to the place he is fitted for, and keep him there with a bayonet is not our notion of securing to him the pursuit of happiness. We can not boast of having had a smooth course, nor have we easily accomplished our aims. But our long experience, compared with that of other peoples, has many elements of contentment and satisfaction. The great mass—the forgotten and to-be-forgotten millions—whom law and politics chiefly concern have more than a thousand years of reasons for not concurring with the professor above quoted. The ancient way is preferred to a modern, scientific, autocratic experi-

ment so attractive to some minds. The right to live by our own system of law unmolested on the part of the earth we have bounds our claim. We can have as good government as we will to have, and as bad as we permit. We can live ill if it pleases us. Liberty has not been abused as much as some fear. We have done better and better all along our course.

In the social order of primitive times, the vassal often accepted his freedom from his lord, and tried to make his own way in the crowded little world that confined him. Almost as often he failed. He had to give up the fight and his ambition for an independent life because he could find no place, no opportunity, to exist as a freeman. So he returned to his lord, knelt before him and putting his head between his lord's knees, swore to be his liege man forever in return for protection and for the support he could not obtain otherwise. It has been the great business of Anglo-Saxon people to find on the surface of the earth a place for that man as a freeman; and their success in that business is proclaimed a grievance by their rivals, now their enemies in war. We know what these freemen have done in the world and how much their law has helped them to do it. Let us teach the way they made their law as the best way to know it.

Which report was supplemented by the following report of Mr. Eldon R. James, a member of the committee:

I do not wish to be regarded as dissenting from any of the conclusions arrived at in the very excellent report of the committee. There are, however, two matters upon which I wish to say just a word. I do not believe that it can be said with accuracy that "the Legislature has prescribed a sufficiently high standard of legal learning and skill for admission to the Bar." It seems to me that a "sufficiently high standard" would require at least three years of study before admission to the Bar examinations. This is the requirement in many States, and I see no reason why it should not be the requirement in Missouri. I do not wish to be understood as saying that it is desirable that every applicant for admission to the Bar should have spent three years in a law school, but I do believe that the time has come when we can say that he ought to have spent three years in the study of law either in a law school or in an office or in any other way which the applicant's necessities or inclinations may require.

It seems to me, also, that the very obvious differences between the profession of the law and the profession of medicine do not necessarily require that the legal profession should not exercise some control and supervision over legal education in a way similar to that exercised by the medical profession over medical education. The medical profession, it seems to me, has pointed the way in this respect to the legal profession, and while perhaps we ought not to go quite so far as the medical profession has gone, we at least ought to go forward in the same spirit.

And the following by Hon. R. L. Goode, also a member of the committee:

I endorse practically all of what is said in the report of the

committee, but wish to add the following:

First. The prelegal education required for admission to the Bar ought to be not less than the equivalent of four years in a standard high school.

Second. At least three years of attendance and legal study in a law school, or in a lawyer's office, should be required.

Third. The statutory requirement for examination in Common Law Pleading should be repealed.

Thereupon the Association adjourned until the next morning at 10 o'clock.

THIRD DAY, SEPTEMBER 29, 1917.

MORNING SESSION.

THE PRESIDENT: The meeting will now come to order. The Chair will recognize Mr. German.

MR. GERMAN: I desire to read and file the report of a special committee appointed by this Association to procure and present to the Supreme Court a portrait of the late Judge Fox:

"Your special committee, appointed to obtain and present to the Supreme Court of Missouri, a portrait of the late Judge James D. Fox, respectfully report that they have executed that commission, in the name of your association, and at the opening of the October Term, 1916, presented the portrait to the Court. It was accepted, and now adorns the walls of the Supreme Court room (Division No. 2) at Jefferson City.

"The proceedings on that occasion are shown in the accompanying report (Exhibit 'A'), including the Presentation Address by Judge William C. Marshall for the association, which report your committee request may be taken as a part hereof.

"The Treasurer of the committee (Hon. E. M. Grossman) reports a remaining unexpended balance of $128.07 subject to the order of your Association. We would suggest that same be transferred to account of some other memorial committee of your Association, having in charge the presentation to the Court of a portrait of some other departed Judge, or that such other order be made as may be deemed appropriate in the premises.

"Having as described, concluded its willing service, your committee prays to be discharged acordingly."

"EXHIBIT A."

"PRESENTATION OF THE PORTRAIT OF JUDGE FOX IN THE SUPREME COURT OF MISSOURI.
OCTOBER TERM, 1916.

Jefferson City, Mo., October 10, 1916.

At the opening of the October Term of the Supreme Court, Tuesday, October 10, 1916, the following proceedings were had:
MR. SHEPARD BARCLAY: May it please the Court:

As soon as a suitable opportunity arrives and your Honors' arrangements for the business of the day permit, will you accord a short time for the presentation to the Court of a portrait of the late Judge Fox by the Missouri Bar Association?

The Chief Justice indicated that the presentation might proceed.

MR. BARCLAY: The members of the family of Judge Fox, who had hoped to be present, are unavoidably prevented; but Mrs. Fox, although too ill to take part in these proceedings, desires me to express to the Court and to the members of the Bar Association her thanks and appreciation of the honor done to the memory of her distinguished husband, in the presentation and acceptance of the portrait, which is now to be tendered to the Court.

(The painting was then unveiled by the Clerk of the court.)

Will your Honors entertain a motion on the part of the Bar of the State that this portrait be accepted by the Court?

Motion read as follows:

"In the Supreme Court of Missouri, in the matter of the history of this court, October Term, 1916.

MOTION TO ACCEPT FROM THE MISSOURI BAR ASSOCIATION A MEMORIAL PORTRAIT OF THE LATE JUDGE JAMES D. FOX.

Jefferson City, October 10, 1916.

To the Honorable the Supreme Court of the State of Missouri:

The Missouri Bar Association, desiring to honor and perpetuate the memory of Hon. James D. Fox, for many years a member of this court, appointed a Special Committee composed of Hon. Charles B. Faris, Hon. John T. Sturgis, Hon. Robert A. Anthony, Hon. Charles W. German, Hon. Ralph Wammack, Hon. S. Oak Hunter and the undersigned, to obtain and present to the Supreme Court a portrait of the late Judge. Having executed that commission, the committee, by the undersigned, as chairman thereof, moves the court to accept the portrait now accordingly submitted, as painted by Mr. Carl G. Waldeck of St. Louis; and that it be admitted to your collection of paintings of distinguished men who have contributed important parts to the history of Missouri by service on the bench of this court. On a former occasion (in the opening of the 232d official report of your decisions) a memorial record of this departed brother was entered by this court, but it is fitting that his portrait should also be added to those of his predecessors. The committee has requested Hon. William C. Marshall, one of the colleagues of Judge Fox, to prepare an address on behalf of the Association for this occasion, and it will be submitted to the court.

For the Bar Association we respectfully pray the Court to accept this further testimonial to the worth, learning, ability and public services of this brother, who for nearly thirty years gave to the judicial life of the State most devoted, faithful and unremitting service, and who, for a large part of the time, was the unanimous choice of his associates on the bench of all the courts in Missouri as President of the Conference of its Judges. We further pray that such other orders be made in the premises as the court may deem appropriate.

For the Special Committee of the Missouri Bar Association.
(Signed) Shepard Barclay, Chairman."

"Unavoidable circumstances have prevented Judge Marshall from attending the court at this time, but Judge Hickman P. Rogers, former Circuit Judge in St. Louis, has graciously consented to read his address:

"ADDRESS OF HON. WM. C. MARSHALL

"On behalf of the Missouri Bar Association in presenting the portrait of Judge James D. Fox to the Supreme Court.

"*May It Please Your Honors*:

"The Missouri Bar Association appointed a committee to have the portrait of Judge James D. Fox painted and presented to this court. The committee has discharged its trust, with the result before you, and have done me the great honor to select me, from so many other abler members of the Bar, to present it to the court.

"This preference was conferred upon me, not because of my ability to do justice to the occasion, but because of my sincere friendship for and association with Judge Fox.

"His distinguished career upon the Bench of this Court, and his invaluable services as a member of the Board of Commissioners in the erection of this proper and comfortable home for the Court, make it extremely appropriate that his portrait should have a place among the galaxy of the talented and faithful men who have given to this Court its well merited high standing among the Judicial Tribunals of America.

"I know that Your Honors will cheerfully suspend your arduous labors long enough to join with the State Bar Association and its representatives here present in making a perpetual memorial to his life and his career upon the Bench, and I make no apology for the time consumed in recording my appreciation of him as a man and as a Judge.

"Those who knew him well need no such token, for he will always live in their hearts and memories. Those who read his opinions will need no reminder, for his wisdom and justice will always be a pole-star to guide the Bar in the solution of the ever-recurring complexities of life.

"The sixty volumes of the Reports of this Court—from the 171 to the 230—contain an imperishable monument to his learning, his industry, his mental and moral honesty and integrity and to his never-failing sense of fairness and justice to all litigants, and to his courtesy to the lawyers. But there were characteristics and humanities, which the world does not know; and there were motives which guided his conduct, which only those who were behind the scenes could know, that deserve to be proclaimed and preserved for the benefit of those now living and for those hereafter to come.

"As a man, he was considerate, tender-hearted, courteous, kind and honest. If he had been asked what inscription should be written upon his headstone, he would have asked, as Abou-Ben-Adam asked the Angel: 'Write me as one who loved his fellowman.'

"As a Judge, he had but one rule: To do right and to hold the scales of Justice level and let them decide the cause. No man could ever truthfully say that in Judge Fox he had '*a friend in court.*' No man ever thought that he could be influenced or swerved by popular clamor or personal or political considerations. The standards of right and truth and justice and mercy were his measures and his crucibles. The principles of the law as declared by the wisdom of the ages, were his guide. The precedents were valuable only as they conformed to such principles. He belonged to the 'old school' that believe that: 'Hard cases make bad law';

that decisions based upon expediency or the exigencies of each particular case, 'like chickens come home to roost,' and are certain to rise up and plague the Court; that the facts in each case differ, but that the real right and the real law are eternal and as unchangeable as the stars in their course. He never considered what effect his decisions would have upon himself, or his friends or his foes. He believed that his friends would not ask him to do wrong, and he knew his enemies could not make him do so. The honor of the Court was to him a sacred trust. He believed that his relation to the Court, and what a Court stands for, was fiduciary and not a personal prerogative, to be bestowed or withheld for 'one consideration or another.' The law had honored him, and he kept the faith. The people had trusted him, and he never betrayed the trust.

"It was for these reasons that his decisions never lost him a friend nor gained him an enemy, because they were based upon right and justice and truth, and all men knew that to be the fact, and even in their secret hearts they never blamed him, but always accorded to him the fullest confidence in his honesty. He may not always have been right—what mortal man ever was?—his brother Judges did not always agree with him, but none of them ever questioned his honesty or sincerity, and he never doubted theirs. He believed it was better to trust and be deceived, than to deceive to be trusted.

"His keen sense of humor and his unfailing good nature, made him a desired addition to any gathering, and his unaffected geniality and spontaneous wit were a source of pleasure and profit to his associates. Yet, with all, there was a dignity, a poise of manner and an individuality that commanded respect and repelled undue familiarity in his judicial life.

"In his twenty-two years on the Circuit Bench and his seven years and nine months as a Judge of this Court, he won and retained the respect and regard of his associates, of the members of the Bar and of the good people of the whole State, and especially his neighbors in Southeast Missouri, that he was so proud of.

"His opinions rang true, and compare favorably with the best of those of his predecessors and of his contemporaries. His impulses were of the best, and his judgments righteous, but tempered with an acute understanding of the frailities of human nature and of 'the temptations that flesh is heir to.' He was 'a man among men,' in the best and purest sense of the term. His errors arose from the head and not from the heart. His friends loved him, and if he had any enemies—of which there is no record—they respected him.

"He was a Christian and a member of the church, but he was not a Pharisee or intolerant of the views of others. He lived as his sense of right and as his conscience pointed out the way. He never intentionally or knowingly wronged any man, but, on the contrary, his humanities and charitable impulses made him forgiving to the faults of others, and ever ready to extend a helping hand to protect the weak and to smooth the journey through life for those who sought his advice and assistance. He died as he lived—'with malice towards none, with charity towards all.' When the Angel of Death came, it wrapped the mantle of Fame about him, and carried his spirit back to his Maker. The Books of the Recording Angel have been balanced, and his credits for so many good

deeds far outnumber the few and insignificant debits in his accounts.

"On behalf of those for whom I speak, I ask that your Honors award his portrait a place upon the walls of this Temple of Justice."

ACCEPTANCE.

"The Court (by Judge Graves) responded heartily and with much feeling to the address and joined in the tribute to the departed jurist, cordially approving the same, and ordered that the motion be sustained, the portrait be accepted, and placed among the collection in the Supreme Court rooms."

MR. GERMAN (continuing): And I have prepared a resolution, differing slightly from the suggestion in the report of your committee, at the suggestion of your President, Mr. Harkless, as the resolution will show for itself:

"It appearing that the committee formerly appointed to procure and present to the Supreme Court a portrait of the late Judge James D. Fox, has completed its labors and has an unexpended balance remaining in its hands of $128.07.

"Be It Therefore Resolved, That the final report of the Fox Memorial Committee presented this day be accepted and approved, and that the Hon. E. M. Grossman, treasurer of said committee, and the treasurer of any other memorial committee, pay to the Treasurer of this Association, to be carried as a Memorial Fund the unexpended balance remaining in his hands as such treasurer, and that the said Fox Memorial Committee be, and it is hereby, discharged as such."

Said motion was duly seconded and carried.

THE PRESIDENT: Mr. German, while you are on your feet, if you have any other report to make from the Grievance Committee, we would be glad to hear it now.

REPORT OF COMMITTEE ON GRIEVANCES.

MR. GERMAN.

Your Committee on Grievances begs leave to report that during the year of our administration the committee has been giving its attention to investigating any complaints lodged against practicing members of the Bar of this State. Under the direction of our worthy President, we have not confined our investigation to members of this Association, but have broadened the scope of the inquiry to include all members of the profession in the State against whom complaints have been laid.

In doing this we have appreciated the fact that this Association has no power as such to attempt to discipline practicing attorneys not members of the Association. Nevertheless, we have agreed with your President that it certainly falls within the power of this

Association, and hence of this committee, as citizen lawyers of this State, to lend our aid and assistance to the constituted authority in looking into and furthering the investigation of complaints against any lawyer indulging in a violation of good legal ethics or a breach of the statute law of the State, regardless of whether he may or may not be a member of this Association.

If he should happen to be a member of this Association, we have the power to deal with him as such, and if the case should in our judgment not justify the institution of disbarment proceedings, to otherwise recommend that he be disciplined by reporting his case to the Association for the purpose of taking such action as the case may justify.

Accordingly we have had occasion to take up for investigation ten or twelve complaints made against practicing attorneys in various parts of the State. Of course, there should be none, because every lawyer should so conduct himself as to leave no possible chance for complaints being lodged against him. But we are pleased to say that none of those against whom complaints were lodged are now, or ever have been so far as we can find out, members of this Association.

The cases investigated have been found, in nearly all instances, to be groundless, largely consisting of cases where clients and others have made complaints which, upon investigation, proved the attorney to have been in the right, or at least, not found to have been in the wrong.

These inquiries may be summarized as follows:

One case in which an Illinois corporation claimed that an attorney had charged a fee in excess of his contract. After the complaint was made the attorney was notified thereof and requested to submit his version of the matter. Instead of corresponding with the committee, as is usually done, he immediately took the train and came to Kansas City with all of the correspondence and a statement, in detail, all of which he freely and frankly submitted to the committee. After carefully examining into the case, your committee had no hesitancy in exonerating him from any blame. His courteous regard for the motives of our committee were manifest and he expressed appreciation of the fact that we were simply doing our duty.

Another case of somewhat similar character was looked into with like result.

There were several others where it was apparent that clients were seeking to use the committee and the Association as a collection agency, and, of course, as soon as this became apparent, cases of this character were dismissed from further consideration.

Another case was presented by an attorney from Tennessee against a lawyer in the northern part of this State, wherein it was claimed that the Missouri attorney had employed the Tennessee attorney, and after the case was disposed of had attempted to remit to the Tennessee lawyer his fee by check, and when the check was presented to the bank payment was refused for want of funds. Thereupon, suit was brought and judgment entered by confession for the amount of the fee represented by the dishonored check. The chairman of this committee made two trips to confer with the Missouri attorney, but was unable to find him or to get a meeting with him and the matter is still under consideration by correspondence.

Another complaint made was founded upon the charge that an attorney had taken a change of venue from his own county to an

adjoining county and after having done so had advised the clerk of the court from which the case was being transferred that if the clerk would allow him, the attorney, to take the files he would make out the transcript to send to the adjoining county in time for the next term. It was contended that he had kept the papers and purposely delayed the transcript so as to have the transcript filed in the adjoining county too late for the trial at the next term of court. This charge was carefully looked into and the attorney complained of promptly made his showing to the committee, admitting that he had procured the papers for the purpose of assisting in making out the transcript, but that it was negligence rather than any intention to delay the cause on his part. He submitted to us proof of his sincerity in the fact that he had offered to the opposing counsel to sign a stipulation agreeing that the case might be docketed at once and proceed to trial just as though the case had been transferred in time.

Your committee concluded, after a careful investigation of the matter, that the attorney was not in the wrong and hence dropped the matter.

Another case which has very recently come under our notice, in fact, within the last week, is in regard to a complaint against a prosecuting attorney of one of the southern counties of this State, but we have not had sufficient time to investigate this so as to report upon it. We will furnish our successors with the data in our possession in reference to the subject.

It was brought to our notice that a member of our profession had prepared and sent a letter to the men in his community who were drawn for army service. The opening sentence of which was as follows:

> "This is possibly the first notice you have received informing you of the fact that you were one of the unlucky ones whose names were drawn in the Great Lottery just held in Washington, D. C., to determine who will be in the first army of 685,000 men which the United States Government is to send against the army of the Imperial German Government in Europe."

Then follows this:

> "This means that if you have any hope of escaping from army service you must appear before the Board of Exemptions AT ONCE and present your claims for exemption. There is a great deal of 'red tape' about prosecuting your claim for exemption and ONE MISSTEP MAY MEAN YOUR FAILURE to successfully avoid that which might be easily avoidable under the proper guidance and direction."

Then follows a bid for business in connection with which the writer of the letter states that he is making a special rate for his services, urging them to employ him, and stating that if he is retained at once his fee will be only $15.00, for, as he puts it, "helping you through—and, after all, what is a few dollars compared with a young man's life?"

As soon as this came to our notice we took the matter up with the United States Attorney, who, in turn, took it up with the proper

officer of the district where this lawyer lived and we are informed that he has been indicted and his case is now awaiting trial. (Loud applause.) This will probably relieve us of the pleasure of doing what we would, of course, have been glad to do in his case. (Applause.)

Your worthy President, soon after he took office, caused to be printed and put up in every courthouse in the State a notice to the effect that this Association had a committee on grievances and that that committee would be glad to investigate any complaints of unlawful or unethical practices on the part of any member of the profession, whether a member of the Association or not. These notices have caused many a man to stop and think twice before doing something which, of course, his conscience told him he should not do.

We think we may be justified in saying that it has now become known that this Association is earnestly determined to give its attention to infractions by attorneys practicing in this State of the ethics of the profession, as well as matters of more serious moment, and that this position of this Association has, and will in the future continue to have, a very wholesome and beneficial effect upon the members of the Bar who might otherwise be inclined to venture upon lines of professional impropriety.

Our work has been done at comparatively small expense to the Association and we are of the opinion that this committee in the future should be composed of men who will give their earnest efforts to the work coming before the committee.

Your worthy President has recommended to us that we should, at this meeting, ask the Association to give authority to him to expend a sum not exceeding $300.00 annually to defray the expense of carrying on the work of this committee, including the investigation and prosecution of cases. And that this should include rendering whatever assistance may be within the power of the committee to the proper authorities of the State where prosecutions are undertaken by such authorities; our purpose in this regard being that from this time on it may be clearly understood to be the policy and purpose of this Association to insist that the members of our profession should see to it that in the practice of their profession they do not violate the law or legal ethics, and that this Association put itself upon record as determined upon investigation and prosecution of any and all members of the Bar of this State who forget their duty to their profession and the public, whether they be in or out of this Association.

We therefore submit to this Association for its action the resolution accompanying this report, which I shall now read:

> Be It Resolved, That the President of this Association is hereby authorized to expend a sum not exceeding $300.00 annually to defray the expenses of carrying on the work of the Committee on Grievances of this Association, including the investigation and prosecution of cases. That this should include rendering whatever assistance may be within the power of that committee to the proper authorities of the State where prosecutions are undertaken by such authorities, or in any other legitimate way to do whatever it can toward purging the profession of practitioners engaged in unlawful or unethical methods.

THE PRESIDENT: Is there a second to the resolution, gentlemen?

MR. MARTIN LAWSON: I second the motion.

THE PRESIDENT: I will state to you, gentlemen, during the preceding year we have accomplished something in this direction. We have determined, and did determine, and we believe it will be the policy hereafter to not only look after the question of rectifying the mistakes of members of the Bar, unethical or unlawful, of this Association, but also of members generally of the State. There is no reason why our work should be limited to our members only. It is equally our duty to aid throughout the State, any place and anywhere where any man has forgotten his duty to the profession.

This resolution has been offered, gentlemen, with the idea that we might have a fund on hand. I have much interest in seeing that it be placed in the hands of our new president to see that this work is carried on. All in favor of the resolution will signify by saying "Aye"; opposed, "No". The "Ayes" have it.

Motion carried.

JUDGE STURGIS: Mr. Chairman.

THE PRESIDENT: Judge Sturgis, of the Court of Appeals, Springfield.

JUDGE STURGIS: I desire to present a resolution prepared by the committee that was appointed yesterday morning, expressing the loyalty of this Association to the Government of the United States during the present crisis, and I want to say that I think that nothing more important has come before this Association than this report, and I will also ask that the report be adopted by a rising vote, and I will say in advance that the resolutions are not, for the most part, original, but are copied from the resolution adopted by the American Bar Association at its recent meeting at Saratoga, New York:

"WHEREAS, It is the unanimous sentiment of the Bar Association of Missouri that the United States was and is fully justified in declaring and waging war against the Imperial German Government and engaging in the present world struggle for the supremacy of freedom and democracy against militarism and autocracy; that subsequent events have demonstrated beyond a doubt to every liberty-loving and patriotic American the wisdom of our country's

choice and the righteousness of the objects for which we are fighting; and that America is thrice armed in that her cause is just;

THEREFORE, the Missouri State Bar Association declares its absolute and unqualified loyalty to the Government of the United States.

We are convinced that the future freedom and security of our country depends upon the defeat of German military power in the present war.

We urge the most vigorous possible prosecution of the war with all the strength of men and materials and money which the country can supply.

We stand for the right and justice of the National Government in this crisis in commandeering, controlling and using whatever is necessary of the material resources of our country and to call into military service every able-bodied man in waging a righteous war; the speedy dispatch of the American Army, however raised, to the battle front in Europe, where the armed enemies of our country can be found and fought and where our own territory can be best defended.

We condemn all attempts in Congress and out of it to hinder and embarrass the Government of the United States in carrying on the war with vigor and effectiveness.

Under whatever cover of pacificism or technicality such attempts are made, we deem them to be in spirit pro-German and in effect giving aid and comfort to the enemy.

We declare the foregoing to be overwhelmingly the sentiment of the Missouri State Bar Association.

(Signed) JOHN T. STURGIS,
ROBERT LAMAR,
Committee."

THE PRESIDENT: All in favor of the resolution, rise. Every man that is capable of rising has risen, I believe. The motion is adopted.

Gentlemen of the Bar, I will call upon Judge Thomas.

JUDGE THOMAS: Mr. Chairman, gentlemen: The Association doubtless remembers that last year a committee was created to take into consideration the publication of some organ for this Association. I was a member of that committee, but was requested not to make any report, as it was expected that such report would be embodied in some other report. There has been no such report made.

Without taking your time, I desire to make the following motion along this line:

"I move that the Executive Committee, and they are hereby authorized, to take into consideration the establishment of a publication to be issued as the official organ of this association, and if the committee deems such publication feasible, to proceed therewith as soon as practical."

I realize, gentlemen, that this motion, if adopted, would give the Executive Committee considerable power and would necessitate the expenditure of some money. I believe that such arrangements can be made possibly without infringing upon the funds of this Association to any very great extent, at least not sufficiently far as to cripple it, and that such publication can be brought into existence and will be of great service.

MR. JAMES C. JONES (St. Louis): I second the motion.

Which motion was duly carried.

MR. JAMES C. JONES: Anticipating favorable action on some matters in Mr. Hudson's report, particularly that which provides for the creation of local bar associations throughout the State, which should be articulated with this Association, and thinking it best, perhaps, that we should not wait until the next session, one year from now, in which to adopt whatever recommendations that the committee which may be appointed pursuant to Mr. Hudson's recommendation shall think proper and advisable, I find that the Constitution does not contain any provision for a special meeting. It is my hope and expectation to be able to call this Association together during the holidays, either here or at St. Louis, or some other convenient point, for a one-day session for the special purpose of adopting the new organic law that may be recommended by this committee. That could not be done without provision in the Constitution for a special meeting, and there is nothing of that sort. The article that I propose to amend is Article VIII, which provides for the annual meeting, and I move you that that article be amended by adding thereto the following:

"Special meetings of members may be called by the President or the Executive Committee, providing that notice of such meeting and its purpose be sent by mail to each member of the Association at least ten days prior to the date of such meeting."

I move the adoption of that amendment to the Constitution, which, under the Constitution, may be adopted by three-fourths of the members present at any meeting.

MR. BURNS (Brookfield): I second the motion.

Which motion was duly carried.

MR. JONES: Mr. Chairman, at the suggestion of Judge Garesche of St. Louis, I offer the following resolution:

"RESOLVED, That while and so long as any member of this Association is in the service of the Army or Navy of the United States, or any of its Allies, the annual dues of such member shall be waived."

I move the adoption of that resolution.

MR. TRICE: I second the motion.

Motion carried.

MR. HUDSON: Mr. Chairman—While we are on the subject of amending the Constitution, I wish to propose an amendment which will take care of a matter which arises every year in the meetings of the General Council, namely, the matter of voting by proxies. I think that most of those present at the General Council would agree to the amendment that I am about to propose.

I move that Article III of the Constitution be amended by adding to the last paragraph, which reads as follows:

"A majority of the members of any committee, and also a majority of the Council, who may be present at any meeting of the Association, shall constitute a quorum of their respective bodies for the purpose of such meeting."

I move that paragraph be amended by adding:

"The General Council may permit a member who may be unable to attend a session in person, to give his unconditional proxy to a member of the Association who is a resident of the same judicial circuit. *Provided*, such absent member designates his proxy to the Secretary of the Association before the beginning of the session during which the General Council is meeting."

MR. JAMES G. HULL (Platte City): Mr. President, I second the motion.

Motion carried.

THE PRESIDENT: We have with us, gentlemen, Mr. Gardiner Lathrop of Chicago, who is to address us this morning upon a very interesting subject. I have promised, however, to hear Mr. Frank Brumback upon his paper, "Today and Yesterday", immediately after which we will have the address from Mr. Lathrop of Chicago. Is Mr. Brumback in the room? Mr. Brumback, will you please come forward?

Gentlemen, before introducing Mr. Brumback, I want to

say to you that the paper he is about to read is short, but one that is very interesting. It has been presented once to the Kansas City Bar Association, but is so good that I have requested that he read it to the Missouri Bar Association.

Mr. Brumback, of the Kansas City Bar. (Applause.)

Mr. Brumback then delivered the following address:

"TODAY AND YESTERDAY,"

BY HON. FRANK BRUMBACK, KANSAS CITY, MO.

Gentlemen, I wish I could justify the words of praise that your President has uttered. You only know him here in his official capacity, and in that capacity his tongue drips honey, but if you met him on the other side of a lawsuit, you would find that that same tongue was barbed with gall and wormwood.

I want to talk to you a moment about "Today and Yesterday." There was once an old man with a thin face, a long nose and a satirical smile. He overturned kingdoms with a sarcasm and by his reasoning established democracies. Today we call him a philosopher; yesterday they called him "that beast Voltaire." Of course, as today we have reached the utmost height of enlightened reason, our verdict must stand. He is a philosopher and entitled to the greatest attention. When he began to reason, his first position was, "Come, let us define our terms."

When you and I begin to talk together let us first understand what we are talking about.

No one will dispute that the term "today" is agreed upon. It means the present instant, just now as you are sitting here hoping that you will not be bored to death by what you must hear. Today is the accomplished fact and when it ends tonight we shall look forward with bright hopes toward tomorrow, desiring to accomplish more then than we have accomplished today. As we enter upon tomorrow can we learn anything from yesterday?

But what do we mean by "yesterday"? The term is defined for us by the highest authority. This authority I refer to with the utmost confidence, for it is approved by the just voice of all of us and is therefore conclusive. I refuse to take any definition from the Priests of Isis, from Mohammed, from Confucius or from Buddha, for me, in the supreme court of civilization, have reversed their judgments.

This authority to which I appeal for a definition is so well known to all of you that I do not need to give you the citation. There it is said, "A thousand years are in his sight as but one day."

As highly educated lawyers you, of course, know the statutory method of calculating time that has been ordained by the infinite wisdom of the Legislature of the State of Missouri. You exclude the first day and include the last. Therefore, excluding the first one thousand years, and including the last one thousand years, we arrive at the just conclusion that "yesterday" means some two thousand years or more ago.

What I want to discuss with you is whether we of this today are at all different in feelings and temperament from the people of that yesterday. The fact that we are not at all different is well

proven because the same motives actuated men in that yesterday which influence us in this today; the same laws were passed then to control vice such as we pass today to regulate the vicious; and the operation of our motives and our laws today are the same as the operation of the motives and the laws of yesterday. This I hope to establish to you by a few instances and no very long discussion. If I do establish it in your mind, I then want to ask you in what we have been wrong; by what ignorance have we men of today been led to make the same mistakes that the men of yesterday made?

I speak with the utmost humility, and I doubt whether I ought to speak at all, for you and I belong to that body of men whose opinions have been, today and yesterday, treated with the utmost scorn and contempt. Today the many-tongued voice of the printed word cries aloud against the lawyer and demands that the justice of all causes be determined by the judgment of all the people without the interposition of any hired reasoner. Of course, this judgment is to be guided by those who use the printed words to influence the judgment of the people. This is said today by the printed word. Yesterday spoke Caligula, Emperor of Rome, whose name has been handed down through twenty centuries as the synonym of depravity, saying: "By Hercules, I shall put it out of their power to answer any question in law otherwise than by referring to me."—Suetonius Lives of the Caesars. Title Caligula, Sec. XXXIV.

Yesterday we had one master. Today we have many.

But all of us, even we lawyers, want the light. Some wanted it yesterday; others want it today. You remember old Diogenes, the philosopher of yesterday, who lived in a tub and occupied his time by contemplating the wickedness of mankind. As Diogenes sat upon the ground, Alexander, the conqueror of the world, standing beside the tub, asked whether he could do anything for him. "Yes," said the cynic, "stand from between me and the sun." That was yesterday. Today another demands a place in the sun. The demand is the same. I wonder if the motives are different.

Do you insist that the men of today are different from the men of yesterday? As I look around me here I think I recognize some specimens of the odd sort of animals that today we call "Baseball Bugs," or, more shortly, "Bugs." I remember a game last summer when the home team was playing Baltimore. The stand was crowded. We needed two runs. Then came the seventh inning. The mass of people rose and in loud voices called upon God, and some upon various devils, to grant them aid in this lucky seventh. That was today. Yesterday Aulus Gellius, in his Attic Nights, Chapter X, wrote a treatise upon the good and ill-luck of the number seven and finally determined that the tide of men's fortunes either ebbs or flows at the seventh, fourteenth, twenty-first, forty-ninth, fifty-sixth, sixty-third and eighty-fourth years. So, you see, Mr. President, that as you now approach your eighty-fourth year, you must keep your fingers crossed lest you meet a dark lady at the corner of Seventh and Grand avenue.

Do you still contend that the sweep of civilization has entirely changed the nature of man? I doubt it. Why, even the animals of today act just as did the animals of yesterday. Today we hear handed down in song and story the virtues of the Missouri mule. His bray resounds through continents and we are led to believe that no such intelligent and hard-working animal ever lived in

the days of yesterday. Alas, gentlemen, even this most estimable descendant of a jackass must droop his ears and depress his tail, for Plutarch relates (Life of Marcus Cato, Bohns' pocket edition, p. 103, *l. c.* paragraph 5):

> "When the Athenian people built the Parthenon they set free the mules which had done the hardest work in drawing the stones up to the Acropolis and let them graze where they pleased unmolested. It is said that one of them came of its own accord to where the works were going on and used to walk up to the Acropolis with the beasts who were drawing up their loads as if to encourage them and show them the way. This mule was by a decree of the people of Athens maintained at public expense for the rest of its life."

'Tis strange that the mules of today are much the same as the mules of yesterday, and do you think that if the mules are the same today and yesterday, can we say that the men of today are different from the men of yesterday? I wonder if they are.

"What's that?" you say. "We are different, we build better machines, we do things more quickly, we move with more neatness and dispatch, we are more efficient." Granted; but I wonder whether to be more efficient in material things is to be more advanced. Does it lead us any nearer to that happy time of which the poet spoke:

> "When the war drums throb no longer
> And the battle flags are furled
> In the Parliament of men, the
> Federation of the world."

We have praised efficiency and today we see efficiency rolling down the broad highway drunk and bloodied, with her boon companions, death and destruction, upon either arm. What is it all about? What are we doing it for today? Can any one tell us? Today we don't know. Yesterday they knew. Don't you remember that story of King Pyrrhus, a King of the older yesterday?

Pyrrhus was ruler of the kingdom of Epirus in Greece. He had a full treasury and a good army. Using his money and his army, he conquered the most of Greece and then began to enlarge his army and enrich his treasury, evidently preparing for another expedition. It happened that he had an old counselor, a wise man, for even in those days there were some wise men. One day, as Pyrrhus was walking down the main street of his capital he met the counselor, who said to him:

"Why, hello, King. I understand you have licked the most of Greece."

"Yes, sir, I have," replied Pyrrhus.

"Now, ain't that fine?" said the counselor. "And what are we going to do next?"

"Well," said Pyrrhus, "I thought I would just step over and clean up Rome and Italy."

"That's great," cried the counselor, "and then?"

"Why, then," returned Pyrrhus, "I will take Asia Minor and Egypt. That will give me the whole of the known world and then

I can come back to this little Kingdom of Epirus and sit down and take my ease and comfort."

"Say! Listen, King," replied the counselor, "can't you do that now? What are you going through all these motions for?" (Plutarch's Lives. Title Pyrrhus.)

Come, now, don't you think that some of the same motives move the men of today that did the men of yesterday? It is hard to make people believe that yesterday men lived and fought and loved and died on the shores of the Mediterranean much as they are doing today. In our conceit we are sure that when we do the good things today we do them in much more godly manner than the men of yesterday. We are certain that when we are bad today we are ever so much more bad than the sinners of yesterday. We hear loud complaints that graft is rampant in all of our governments and instances are pointed out as corruption never before heard of in the world. I wonder if we are as bad as the men of yesterday. Did you ever hear of old man Phocion? He lived in Athens when that city was the center of civilization and wealth, away back in the days of yesterday. Now Phocion was the town knocker. He went through the streets of Athens crying aloud that all the officials were corrupt. He said that the people at the City Hall were stealing the taxes. He claimed that the Admirals in charge of the navy were embezzling the ropes and the sails; and finally, in his third edition, he went so far as to state that the priests at the temple of Delphi were getting away with part of the gold sent in as pious offerings to the god. This last outburst made the Athenians very peevish with old man Phocion, and so they indicted him for high treason, alleging that he was trying to subvert the government. He was tried before a court much like one that some people of today think would give complete justice. It was called the Dikastery and consisted, as I remember, of several hundred Judges. Complete justice being done by this efficient court, Phocion was speedily condemned to death. As you know, yesterday a man was executed by being compelled to drink the hemlock. At the City Hall in Athens they had a very neat execution chamber, all fitted up with couches, rugs and palms. I don't think they had an orchestra or any girls in to dance a tango, but of this I am not certain, for an execution yesterday was quite a merry function. In those days, it was the custom for the condemned man and his friends to meet at the execution chamber and, after they had talked for a while, the executioner would bring the hemlock, which the criminal drank, and passed quietly away. On the appointed day Phocion and his friends met and sat talking about how perfectly rotten things were in Athens, and how after Phocion was gone no one would be left to protect the city from the cloud of grafting harpies that were devouring it. Presently in came the executioner with the bowl of hemlock in his hands. As he crossed the threshold he stumbled and dropped the bowl, spilling the hemlock on the floor.

"Now, look at that pin-headed mutt," cried Phocion's friends, "here we have been waiting for half an hour and this poor boob comes in and spills the hemlock so that we will have to wait another half hour while he goes out and brews another bowl."

The executioner drew himself up with great dignity and said: "Gentlemen, you will have to excuse me. I am paid for the price of one execution. I do not furnish two executions for the price of one."

"Well, for God's sake," exclaimed Phocion, "isn't this a hell of a state of affairs in Athens, when a man can't die without being grafted for his own execution? Give this man two obols and let's have the thing over." (Plutarch's Lives. Title Phocion.)

Today a few daring spirits venture to condemn the follies in which women indulge in times of prosperity, and we all cry aloud in praise of their self-sacrifice in times of adversity. We are sure that yesterday knew no female follies half so silly nor any display of heroism half as noble.

Yesterday Plutarch in his life of Pericles mentioned Caesar's bitter comment on the fashionable women of Rome who affectionately carried puppies and pet monkeys in their arms, bestowing upon them the luxuries which the children of the poor did not possess. Today, do you not see the same woman carrying the same puppy and caressing the same monkey?

In the olden days King Pyrrhus attacked Sparta. The power of the King was great and terror and fright filled the hearts of the men. So they thought to protect the women by sending them into another country. Plutarch tells us that when this was suggested to the women, "they unanimously refused, and Archidamia came into the Senate with a sword in her hand, in the name of all of them, asking if the men expected the women to survive the ruins of Sparta."

The men resolved to defend themselves by digging a trench in front of the city. Plutarch says:

> "When the men had just begun the work, both maids and women came to them, the married women with their robes tied like girdles around their underfrocks and the unmarried girls in their single frocks only, to assist the elder men at the work."

In these present times of fighting for democracy, do we not see our women assuming with entire abandonment of self the hard task imposed upon them by the god of war?

I think you will agree with me that the same motives controlled the men of yesterday that control us today.

Let us consider whether those motives led them to make the same laws yesterday that we make today, and at the same time we may determine whether those laws operated or failed to operate in the same manner that they do today.

In that blessed state of perfection to which the laws have today attained, some wise legislator, with much toil and trouble, induced the passage of a statute providing that, when a criminal is convicted, the Judge may, in his own discretion, parole the prisoner. Thus today is justice tempered with mercy, and we hail the accomplishment of this end as one of the most choice fruits of our advancement.

Yesterday, there was brought before the propraetor, Dollabella, a woman accused of poisoning her husband, a crime not rare yesterday, but in the splendid perfection of our civilization utterly unheard of today. The accused confessed, but alleged certain brutalities that did not amount to a justification in law.

> "Hem!" said Dollabella, "you confess to what the law says is a crime. These brutalities you mention are not included in the criminal code as excuses for your murderous

instincts. Still this is a very complicated and interesting case and I will refer it to the higher authorities."

The higher authorities considered long and doubtfully, but finally ordered that a summons should issue commanding the accused to appear and answer the charge one hundred years from that day. (Aullus Gellins Attie Nights, Vol. II, p. 347.)

Yesterday this action worked out the same beneficent end that the law of today accomplishes. Today the unfortunate drops quietly back into the current of society, and the waters of oblivion close over him, while the law, balked of her prey, drops back into her den. Yesterday, when the hour for answering the summons struck, Dollabella was seated with the gods and the crime forgotten. Don't you think that the law worked out yesterday as it does today?

After much tribulation today we have passed a law fixing the price of a man's injury when he is destroyed or damaged by the carelessness or viciousness of another. Having done this, we sit back complacently and call upon high heaven to witness with admiration the fruition of this most perfect flower of all the ages, crying aloud, "Look, the dawn of the millennium breaks." That is today. Yesterday (Aulus Gellius Attie Nights, Vol. III, p. 410) the law provided any one who injured a citizen should at once pay him twenty-five pence as damages.

In the morning of yesterday there lived in Rome a gay roisterer named Lucius Neratius. His father, a great merchant, had by continuous industry accumulated many millions of sersterces and, when Death with outstretched finger beckoned to him, he passed away, happy in the confidence that he had accomplished something remarkable, and dying, left his fortune to his son. Lucius was puzzled how to spend the vast sums now at his control. He tried wine, women and song, but nothing seemed to deplete his coffers. At last, wearying of other pleasures, he sallied out into the streets of Rome, bidding his treasurer follow him with a bag of money. When he met any one whose looks did not please him, he would strike the unpleasant countenance of that unfortunate gentleman and at once order his treasurer to pay him the statutory penalty of twenty-five pence. So, having satisfied the law, he went further unwhipt of justice.

The law yesterday wanted to attain the prevention of injury. The object of the law today is the same. It failed yesterday. I wonder will it fail today, when a man of sufficient millions undertakes to vent his spleen upon some obnoxious traveler. In fact, limiting the damages reminds one of the joke about the purpose for which railroad companies kept the ax in their coaches, and the result of the ancient law seems to lend point to the modern jest.

Today we have been working our brains hard and fast to obtain by legislation the purity of elections and the culmination of our efforts has resulted in the laws concerning bribery. We compel every candidate to file, under what we are pleased to call his oath, an itemized statement of all moneys spent in his canvass for office. You know how well it works. There are some slight irregularities; but I am sure that, if you want to, you can go down to the public office and, upon looking over the account of your favorite candidate, find out exactly how much two beers and a soda cost him on the morning of last election day. The only thing that will

amaze you will be the increased cost of printing and the mounting price of car fare and motor hire. You may even cavil at some lumped items which you suspect may contain in their wombs the seeds of corruption. But still, take it all in all, every one is satisfied. There is no violence, and we have reformed the ballot.

Yesterday under the same law they conducted the affair somewhat more impetuously, people being then of rather hasty temper, but they accomplished the same result that we have attained. The authority on this question is very specific and conclusive. Plutarch in his life of Cato the Younger, Ed. A. H. Clough, Vol. IV, p. 414, says:

> "The people were at that time extremely corrupted by the gifts of those who sought offices and most made a constant trade of selling their voices. Cato was eager utterly to root this corruption out of the commonwealth. He therefore persuaded the Senate to make an order that those who were chosen into any office, though nobody accused them, should be obliged to come into the court and give account upon oath of their proceedings in their election. This was extremely obnoxious to those who stood for the offices and yet more to the vast numbers who took the bribes. Insomuch that one morning as Cato was going to the tribunal a great multitude of people flocked together and with loud cries and maledictions reviled him and threw stones at him."

So, you see, that in our gigantic modern intelligence we enact the same law that Cato enacted. Yesterday it failed through violence. Today it fails through craft.

What is the matter with our brains? Why do we pick up the discarded, dirty garments of that old legislature and, wearing them as if they were the robes of an emperor, flaunt them in the sun before the face of the laughing gods?

Let us see why today we enact the same laws that failed yesterday.

There are two fundamental reasons. While these two reasons somewhat blend into each other, yet they are really distinct and separate. One is a misunderstanding as to the essential nature of the law. Another is a lack of education which would teach us why men did things yesterday; a failure to know what their motives were, and what were the results of their actions.

But, stop! We are neglecting the first rule we laid down to govern ourselves in this discussion. We have been talking about laws in a free and easy manner, but have failed to define our terms. Pause! Let us define the word, "Law." I know it is fresh in your minds, and as I remember it was something like this: "Law is a rule of action prescribed by the supreme power in the State commanding what is right and prohibiting what is wrong."

I see a certain pained expression upon several faces and seem to hear whispers saying, "Tut, tut! what an old-fashioned definition—a definition of yesterday." Oh, well! let us be thoroughly modern and up to the minute of today in everything that we do. Cyc, Vol. 25, Title Law, p. 163, defines law as "a rule of action prescribed by human society for the government of human conduct." These authorities seem conclusive and I suppose we agree. You do?

Yes? Well, I don't. Considering the conduct of the men of yesterday and the conduct of you men of today, I refuse to agree to either of such definitions. I will agree that both these definitions do most properly define an act of the Legislature which we call a statute, for a statute is merely a direction of the law-making body commanding the performance of what it desires to have done, or forbidding the performance of what it desires not to be done. But law in its higher and better sense is something more than a statute —something more than the mere command of the law-making power. A statute is really a law only when the general sense of the people approves it as commanding the performance of what is really and essentially right or forbidding the perpetration of what is really and essentially wrong. Understanding the term "law" in this way, the ancient definition is perhaps more accurate than the modern one. The older definition mentions the idea of right and wrong. The later one does not. Now this is where I think both the definitions are deficient, the one for implying that the mere passage of a statute by the law-making powers conclusively establishes that the thing commanded to be done is right and that the thing forbidden to be done is wrong; and I think the later definition is deficient in that it does not mention at all the idea of right and wrong. Therefore, I think that any true definition of law ought to contain the idea that the thing commanded or prohibited has been or is to be established by the proper authority as right or wrong.

But you say to me, stop! What do you mean by the words "proper authority"? The definition springs forth ready-armed. Some philosopher in the forenoon of today said it was "the just consent of the governed." And to that definition I appeal in determining whether or not a statute is a law. If a statute is not approved by the just voice of the people as being right, it is not a law, and if the people are not willing to follow it as a law of action, it is not a law. You see this every day of your life. Statutes are passed and the populace break them with the just consent of the governed. I doubt whether any of you can go two blocks in this city without breaking what I call statutes, and which you call laws. You ride to church in your motor at thirty miles an hour and enter the portals of the sacred edifice a just man made perfect; or, if you walk, you cut diagonally across the corner and proceed with a clear conscience. For these crimes, you are not held up to public opprobrium and reproach. In fact, I think the whole thing may be expressed in that homely couplet:

"You may rezoloot till the cows come home,
But if one of you teches the boy
He'll wrastle his hash in hell tonight
Or my name ain't Tilmon Joy."

I think it may be well said that any statute which does not conform to the custom of the country will not be obeyed, and this is the misunderstanding of the nature of law to which I referred a short time ago. A very ludicrous instance of this misunderstanding happened about 5 o'clock of yesterday afternoon. It occurred that at one time a plague called the Black Death swept away about one-third of the people of England. This caused a scarcity of laborers, and the price of labor rose. Parliament enacted a statute fixing the rate at which all laborers should work,

a carpenter so much, a blacksmith so much, farm laborers so much, and so on down the line. After the statute was enacted, a farm laborer came to a farmer and asked for employment, saying, "How much do you pay?"

"Why," said the farmer, "you know the statutory rate."

"Oh, yes," said the laborer, "but haven't you some small cottage that I can have rent free, or a few vegetables from the garden?"

"Why, yes," said the farmer, and when they agreed the statute ceased to be a law. Several years afterward, Parliament, being much grieved and astonished, passed a new statute and the preamble of this last statute displays an astonishing ignorance of the true nature of law. In effect this preamble says:

Whereas, in a certain year of the reign of our gracious King we passed a statute fixing the wages of laborers, and, whereas, no one obeys it; now, therefore, we do now pass a new statute fixing a new rate at which laborers shall work.

Can you guess that both statutes passed into the dust heap of the ages?

People are continually endeavoring to pass laws without regard to an understanding of what law is. The reason why some statutes are passed is about as convincing as the reason why the old negro woman wanted her husband out of jail.

The court was in session; the Judge upon the bench. Aunt Huldah came into the bar and said:

"Jedge, I understand you hev got dat wufless, trifiin', no-count nigger husband of mine down here in de jail an' I jest come down to see if I couldn't git him out."

"What's he in for, Aunty?" asked the Judge.

"Well, suh," replied Aunt Huldah, "dey do say that he done stole a side o' bacon and dat dey cotched him jest as he was comin' out o' Majeh Jones' smoke house."

"But, Aunty," queried the Judge, "if he is as worthless as you say he is, what do you want him out for?"

"Well, Jedge," said Aunt Huldah, "der is a good many reasons why I don't want dat nigger loose, but de—de most obstreperous reason why I do is—dat we is almost out o' bacon."

Now, if we concede that the custom of the country controls the validity of any statute, then you ask me: But may not the custom of the country sometimes be wrong and the proposed statute right? How are we to initiate any reforms if the custom of the country is to control all attempts at betterment?

This leads us very naturally up to a discussion of the second reason why we make mistakes in law-making—a lack of education.

If the custom of the country really controls all law-making powers, don't you think we are beginning at the wrong end when we attempt to make people better by passing statutes which they do not understand, and which their ignorance leads them to disobey? Some people know what happened in the world before, but most are ignorant of what men did yesterday, and why they did it. Yet the greatest question we have to solve is not what we are going to put in our stomachs and wear on our backs, but rather how we can have a just government; for if we have not a just government, we will have nothing to put in our stomachs and nothing to wear on our backs.

I wonder how many of my younger brother lawyers here knew of the simple instances I have mentioned as occurring in the times

of our forefathers. They seem to me to be pregnant with warning to us who believe we are marching toward the triumphant victory of a true democracy. If you did not know them and did not understand their warning, do you know why you were ignorant?

In the last forty years there has been born out of the ooze and slime of our modern madness for material achievement a class of men who, attempting to control the education of the country, have been contending that the old system of education which taught the languages and customs of the older peoples was wrong. They insisted that Latin and Greek should be cast into the same heap that contains the forgotten cuneiform inscriptions of the dawn of civilization, and, following this, they evidently intend to obtain the exile of all ancient history from our schools, thus locking the gate through which we might pass out upon the broad highway of experience. These men call themselves modernists and immediately assume that the things that are modern are the only things that are wholly good. They seem to believe that the far-flung accomplishments of material science are the only things worth striving for; but don't you think that if building a machine is to be the final achievement of man, then we are only the oxen who drag the stones up to the pyramids? The influence of the modernists has been great and we of today, forgetting that the founders of our liberty and our government were nurtured on the traditions of Greece and Rome, see without amazement our modern statesmen treading gaily through our legislative halls, shaking their cap and bells and proposing laws that have been in past ages tried, paid for by the blood of the people and thrown aside. Led by these false teachers, the mechanics, who turn the plastic materials of earth into the tools which provide a greater carnal enjoyment, have come to believe that they stand nearest the footstool of God. The man who, having acquired millions by mechanical pursuits, furnishes those millions to found a school for the education of handicraftsmen, naturally believes that the mind which is trained only to direct the finger tips rules the world. The question of what will be the result of that rule troubles him little, for the quiescent bondsman who knows only how to turn the potter's wheel does not dream of a higher freedom and can not conceive of a greater emotion than the slight intellectual excitement of seeing the wheel go around. The founder is willing to bury the great emotions of the ages beneath the slag heap of material industry.

If mistakes were made yesterday, is it not our highest duty to teach people what mistakes then occurred, in order that they may avoid the snares of today? Are we so teaching them? Our schools teach pupils how to build a house, how to run a locomotive, how to construct an aeroplane, how to control electricity; but the torch of the muse of history burns dimly. Let us go away today resolved to use our utmost endeavor to teach people why a certain law failed yesterday at noon, and another succeeded yesterday at night. So doing, we may help to lead a bewildered nation toward a home of peace and happiness.

I do not want you to think that we should entirely judge every new thing by the standards of yesterday, but I only want you to believe that a knowledge of the successes and failures of yesterday will help us to understand what will be the successes and failures today. Even with this knowledge, we will make bitter mistakes; we will crucify the prophets and stone the sages; but I am sure that a study of the acts and motives of the men of yesterday will

convince you that in all the turmoil and the strife of today still stands the protecting presence that guided the destinies of yesterday and of which a great orator once spoke:

"Right forever on the scaffold,
Wrong forever on the throne;
But that scaffold sways the future,
And behind the dim unknown
Standeth God within the shadow
Keeping watch upon his own."

(Loud and prolonged applause.)

THE PRESIDENT: Gentlemen of the Bar, the next thing in order is an address upon the subject of "Railroads and Their Future". Is Mr. Gardiner Lathrop in the room?

Gentlemen of the Bar, it affords me much pleasure to introduce to you *our* Gardiner Lathrop. (Loud applause.)

"THE RAILROADS AND THEIR FUTURE"

BY HON. GARDINER LATHROP.

Mr. President and Gentlemen of the Missouri State Bar Association:

My subject, assigned, I may say, by your worthy President, is "The Railroads and Their Future."

My duties are such that I have but little time to respond to calls such as this, but no call from an old Kansas City friend who heads the Association this year, and no invitation from a Bar Association whose title is "Missouri" can ever fail, as long as life and mental power continue, to bring forth, no matter how busy I am, an acceptance from me. And then, if any doubt, of which there was none, had arisen in my mind about my ability to get away and come, the subject suggested by your President, in which not only my life but my heart is centered, would of itself made it with me not only a pleasure but a duty to present before this Association of lawyers from all parts of Missouri, some phases of the great question affecting the transportation interests of the country now, and particularly for the future. (Applause.)

Next to soldiers and arms and munitions, the most important factor in the winning of the war in which we are now engaged is the railroads.

For without efficient transportation the soldiers and arms and munitions can not be moved expeditiously, and the products of the mine, essential to the manufacture of arms and munitions and ships, and the products of the farm, essential to the sustenance of the soldiers and sailors, can not be promptly transported. Whatever the faults of the railroads in the past—and I am not here to deny that there were faults—they have risen to the occasion since the declaration of war, by the character of their service, in a manner to command the admiration of all fair-minded citizens.

War was declared by the affixing of the President's signature to the resolution of Congress on April 6, 1917. On the 11th of the same month, five days thereafter, the railroad companies, repre-

sented by their presidents, and including all the important systems of the country, met at Washington and adopted the following resolution:

> "RESOLVED, That the railroads of the United States, acting through their chief executive officers, here now assembled, and stirred by a high sense of their opportunity to be of the greatest service to their country in the present national crisis, do hereby pledge themselves with the government of the United States, with the governments of the several States, and with one another, that during the present war they will co-ordinate their operations in a continental railway system, merging during such period all their merely individual and competitive activities in the effort to produce the maximum of national transportation efficiency. To this end, they hereby agree to create an organization which shall have general authority to formulate in detail, and from time to time, a policy of operation of all or any of the railways, which policy, when and as announced by such temporary organization, shall be accepted and earnestly made effective by the several managements of the individual railroad companies here represented."

Since the adoption of the resolution, other railways have come into line, so that now 693 companies, covering substantially all of the railway mileage of the United States, are constituent parts of this great continental system.

In co-operation with the Council of National Defense and its advisory commission, the direction of this continental railway system has been voluntarily placed in the hands of an executive committee of the special committee on National Defense of the American Railway Association, now designated for brevity as the Railroads' War Board, and constituted as follows:

Fairfax Harrison, President of the Southern Railway System, Chairman;

Howard Elliott, Chairman of the Board of the New York, New Haven and Hartford Railroad;

Julius Kruttschnitt, Chairman of the Executive Committee, Southern Pacific Company;

Hale Holden, President of the Chicago, Burlington and Quincy Railroad;

Samuel Rea, President of the Pennsylvania System.

Ex officio members:

Daniel Willard, President of the Baltimore & Ohio, who is now serving as all know as Chairman of the Advisory Commission of the National Defense Board;

Hon. E. E. Clark, member of the Interstate Commerce Commission.

The five men first named constituting the active members of the Railroads' War Board, all men of great ability and successful railroad experience, since the date of the adoption of the resolution quoted, voluntarily, and without any governmental compensation or other compensation, and have such as they receive from their respective companies, have devoted substantially all of their

time to the operation of the railroads as one system, with the gratifying result of having already produced, in the language of the resolution, "a maximum of national transportation efficiency."

This result has been admirably set forth in a recent paper by Mr. Fairfax Harrison, Chairman of the Board, which I summarize as follows:

> "In addition to welding into one loyal army each and every one of the 1,750,000 persons employed by the railroads—from engine wipers to presidents—the co-ordination of the nation's carriers has made possible the most intensive use of every locomotive, every freight car, every mile of track and every piece of railroad equipment in the country.
>
> "The excess of unfilled car requisitions over idle cars, or what is commonly called car shortage, has been reduced seventy per cent.
>
> "In the month of May freight transportation service rendered by about seventy-five per cent of Class I roads (earnings of one million dollars, or more) was 16.1 per cent in excess of the service rendered in 1916.
>
> "Approximately 20,000,000 miles of train service a year have been saved by the elimination of all passenger trains not essential to the most pressing needs of the country. This reduction of passenger service has released hundreds of locomotives and train crews and cleared thousands of miles of track that are absolutely needed in the freight service for the transportation of necessities.
>
> "Freight congestion at many important shipping points has been averted by promptly moving empty cars from one railroad to another, irrespective of ownership.
>
> "Through the pooling of lake coal and lake ore, a saving of fifty-two thousand cars in moving those commodities alone has been achieved. A further saving of 133,000 cars has been made possible by the pooling of tidewater coal.
>
> "In their efforts to shoulder the abnormal burden thrust upon them by the entrance of this country into the war, the railroads have not confined themselves solely to the task of making one car do double work. Through their War Board, they have also supplied the government with every facility possible for intelligent co-operation in the handling of every military problem involving the transportation of troops and supplies.
>
> "Skilled and experienced railroad men have been sent to every cantonment to assist the constructing quarter-

masters there in the movement of all supplies necessary to the erection and maintenance of these military cities. A trained executive has also been stationed in the Washington headquarters of the supervising constructing quartermaster, so that every car used in the transportation of government supplies might be made available when needed.

"As a result of these co-operative activities, the movement of thousands of car loads of lumber and other supplies to the cantonments has been accomplished practically without a hitch.

"In addition, and at the request of the government, plans have been perfected whereby one million men are to be moved from nearly five thousand different points to the thirty-two training camps for the National Army and National Guard by October 20th. About one-third of these men, the National Guard, are already under way and are carrying their tents and equipment with them. This means that in addition to the coaches and tourist sleepers occupied by them, more than 12,000 freight cars must be transported.

"No special difficulty would present itself in accomplishing these troop movements if they represented all that the railroads were being called upon to perform at this time, but the movement of these million soldiers to their training quarters must not be permitted to interfere with the general movement of freight and passenger traffic, if such interference can possibly be avoided.

"Among some of the other things accomplished by the Board during the first four months of its existence have been the designing of special equipment for hospital and troop train service, the standardization of settlements between the government and the railroads, the eliminating of a large volume of correspondence and red tape, and the creation of a special committee on express transportation, composed of the vice-presidents of the American, Wells Fargo, Adams and Southern Express Companies, to cooperate the work of the companies with the general problem of transportation."

While the plan of operation of the American railroads is something like that adopted in England, a noteworthy difference is to be mentioned in the fact that there "the government assumed the financial responsibility and guaranteed, in taking over the railroads, and putting railroad men at the front of them, that the net earnings of the companies would continue to be what they

had been before the war started," while here the companies, giving the government preferential service, take all the risk of diminished revenues.

Pursuant to the resolution, therefore, the American railroads have "enlisted for the war," so that during the period of its continuance, which God grant may be brief, their efficient management as one system under the able Railroads' War Board will be maintained.

What, then, of the future of the railroads? Certain it is that conditions which existed prior thereto can not be restored and the railroads prosper thereunder. Under the stress of regulation by the Federal authority and by the authorities of the forty-eight states, resulting in radical decreases of rates to the point of near confiscation, and sometimes beyond it, they were breaking, a very substantial amount of their mileage having been forced into receiverships during the past few years, of which Missouri, as you all know, has had more than its share. On top of drastic regulation were piled constantly increasing burdens of taxation and increased wages, and the cost of everything that entered into railway construction and maintenance.

That some regulation of railroads is necessary and desirable no intelligent student of the railway problem will deny. Prior to the adoption of the original interstate commerce act in 1887, unrestrained competition led to ruinous railroad wars and to vicious practices of discrimination, which had to be stopped by the strong arm of the law. But rates having been stabilized and made uniform and preferences and discriminations having practically disappeared as the result of their having been made unlawful, the regulatory policy should have been one of liberality, fixing rates on such a compensatory basis as to invite the necessary capital for the improvement of facilities in the way of double tracking, the enlargement of terminals, the construction of new lines, the purchase of more and better equipment, to meet the ever-increasing demands of our expanding commerce. Instead of this, even the Interstate Commerce Commission, starting originally with the idea that they were the representatives of the shippers only, and that upon complaint rates must be reduced, have been, even since they were empowered to prescribe maximum rates in 1906, far from generous, to put it mildly, in granting necessary increases to afford an adequate return upon the capital invested and encourage the investment of further capital by purchases of stock. For to require the railroads to get additional money to meet their requirements, from time to time, in no other way than by the issuance of bonds, and securing the same by successive mortgages upon their property, is a sure precursor to disaster. And now, by reason of the war, and the cutting off of the foreign markets, and because of drastic regulation, the sale of even first mortgage railway bonds, except at a ruinous discount, can not be made, and the sale of new capital stock is an utter impossibility.

And if the Interstate Commerce Commission has failed to take a broad view of the railway situation and has been reluctant to grant increases of rates imperatively needed, what shall be said of the railway policy of the forty-eight states of the Union? It has been narrow and illiberal in the extreme, stopping only, and

then at the end of expensive litigation, at the limit of confiscation. Each state has vied with the other in building a wall around its boundaries, and with the false idea that state industrial development would come from prescribing the lowest possible basis of local rates with a view to the exclusion of interstate commerce, have paralyzed railroad improvement and expansion so that during the last three years new railroad construction has come to a practical standstill, less new miles of road having been built during those years than in any one of the fifty years preceding. In addition to this hammering down of the rates to the point of what has been aptly denominated "near confiscation," these same states, with hardly an exception, have continually increased the burden of taxation, have made exacting requirements as to conditions of operation, and, at the behest of organized labor, fearing its political influence, have, in many instances, passed so-called "full-crew" laws, imposing upon the railroads an expense of millions of dollars by having upon their trains an extra man, who, in this day of air brakes, is entirely unnecessary. It is to be noted with pride, in passing, that the recent act of the Missouri Legislature in enacting such a "full-crew" law was repudiated at the polls, upon a referendum to the voters of the state, after a vigorous campaign of education.

Commerce is national. Railway transportation knows no state lines; they are purely artificial in so far as commerce is concerned. Division points on railroads are located for the dispatch of business, regardless of geographical boundaries. Trains carry local shipments and interstate shipments, local passengers and interstate passengers, indiscriminately, and often in the same car. As is well known to all readers of American history, the local jealousies of the new states at the close of the Revolutionary War, and their respective efforts to promote local commerce to the exclusion of commerce from the other states, was one of the chief moving causes for the framing and adoption of the Federal Constitution, which gives Congress power "to regulate commerce with foreign nations, among the several states, and with the Indian tribes." Now, at this late day, when our country has grown to a population of one hundred millions, and our commerce has expanded from ocean to ocean, and to the remotest corners of the globe, the states as a whole, some to a greater extent than others, are renewing their efforts to burden and interfere with interstate commerce by narrow and ill-considered legislation and regulation, designed to control local traffic to the exclusion of that from other states. The railroads have been contending with this question and with the burdens resulting therefrom, not alone to their local commerce, but to their interstate commerce as well, resulting in large losses of revenue, until at length the Supreme Court of the United States, after the Interstate Commerce Commission had found as a fact that discrimination against interstate commerce existed, has asserted the supremacy of Federal authority in the so-called Shreveport case. (Houston & Texas Ry. v. U. S., 234 U. S. 342.)

The facts in that case were that the Interstate Commerce Commission had prescribed interstate rates upon certain commodities, from Shreveport, Louisiana, to points in East Texas as

reasonable. The Texas State Commission, in an attempt to protect its local commerce, had prescribed certain lower rates upon the same commodities from Dallas and Houston to East Texas points, equidistant from Shreveport. Thereby, of course, the service being identical, a discrimination was created against interstate commerce by keeping the Shreveport merchants out of East Texas points, owing to the lower Texas state rates. The Supreme Court held this discrimination must be removed, and that the Federal authority under the commerce clause of the Constitution had power to remove it. The Court says:

> "It is unnecessary to repeat what has frequently been said by this Court with respect to the complete and paramount character of the power confided to Congress to regulate commerce among the several states. It is of the essence of this power that, where it exists, it dominates. Interstate trade was not left to be destroyed or impeded by the rivalries of local governments. The purpose was to make impossible the recurrence of the evils which had overwhelmed the Confederation and to provide the necessary basis of national unity by insuring 'uniformity of regulation against conflicting and discriminating state legislation.' By virtue of the comprehensive terms of the grant, the authority of Congress is at all times adequate to meet the varying exigencies that arise and to protect the national interest by securing the freedom of interstate commercial intercourse from local control.
>
> * * * * * * * * *
>
> "Its authority, extending to these interstate carriers as instruments of interstate commerce, necessarily embraces the right to control their operations in all matters having such a close and substantial relation to interstate traffic that the control is essential or appropriate to the security of that traffic, to the efficiency of the interstate service, and to the maintenance of conditions under which interstate commerce may be conducted upon fair terms and without molestation or hindrance. As it is competent for Congress to legislate to these ends, unquestionably it may seek their attainment by requiring that the agencies of interstate commerce shall not be used in such manner as to cripple, retard or destroy it. The fact that carriers are instruments of intrastate commerce, as well as of interstate commerce, does not derogate from the complete and paramount authority of Congress over the latter or preclude the Federal power from being exerted to prevent the intrastate operations of such carriers from being made a means of injury to that which has been confided to Federal care. Wherever the interstate and intrastate transactions of carriers are so related that the government of the one involves the control of the other, it is Congress, and not the state, that is entitled to prescribe the final and dominant rule, for otherwise Congress would be denied the exercise of its constitutional authority and the state, and not the nation, would be supreme within the national field."

Again, after citing cases, the Court says:

> "While these decisions sustaining the Federal power relate to measures adopted in the interest of the safety of persons and property, they illustrate the principle that Congress in the exercise of its paramount power may prevent the common instrumentalities of interstate and intrastate commercial intercourse from being used in their intrastate operations to the injury of interstate commerce. This is not to say that Congress possesses the authority to regulate the internal commerce of a state, as such, but that it does possess the power to foster and protect interstate commerce, and to take all measures necessary or appropriate to that end, although intrastate transactions of interstate carriers may thereby be controlled.
>
> "This principle is applicable here. We find no reason to doubt that Congress is entitled to keep the highways of interstate communication open to interstate traffic upon fair and equal terms. That an unjust discrimination in the rates of a common carrier, by which one person or locality is unduly favored as against another under substantially similar conditions of traffic, constitutes an evil is undeniable; and where this evil consists in the action of an interstate carrier in unreasonably discriminating against interstate traffic over its line, the authority of Congress to prevent it is equally clear. It is immaterial, so far as the protecting power of Congress is concerned, that the discrimination arises from intrastate rates as compared with interstate rates. The use of the instrument of interstate commerce in a discriminatory manner so as to inflict injury upon that commerce, or some part thereof, furnishes abundant ground for Federal intervention. Nor can the attempted exercise of state authority alter the matter, where Congress has acted, for a state may not authorize the carrier to do that which Congress is entitled to forbid and has forbidden.
>
> "It is also to be noted—as the government has well said in its argument in support of the Commission's order—that the power to deal with the relation between the two kinds of rates, as a relation, lies exclusively with Congress. It is manifest that the state can not fix the relation of the carrier's interstate and intrastate charges without directly interfering with the former, unless it simply follows the standard set by Federal authority."

This decision has been followed by the South Dakota express case, (American Express Co. v. Caldwell, 244 U. S. 617), decided June 11, 1917, where the same doctrine was asserted.

But cases of this character are expensive and burdensome and are fruitful of friction and bring down upon the heads of the railroads hostile action of the states in various ways. In fact, although the Shreveport case was decided June 8, 1914, the State of Texas is still resisting its final effect by a further appeal to the Interstate Commerce Commission to modify its decision

out of which the controversy arose and by prescribing local rates which the railroads have been compelled to enjoin. Besides, a determined effort, which almost succeeded, was made at the 1917 session of the Texas Legislature to pass a bill declaring a forfeiture of the charter of any railroad refusing to obey the rate orders of the State Commission, the laws of that state, as is well known, requiring all railroads to be owned and operated by a local corporation.

Even when the supremacy of the Federal authority as to discriminatory rates is recognized, local rates not directly affecting interstate rates or creating discrimination may still be prescribed by state authority down to the point of near confiscation, to the serious injury of the railroads and resulting in many cases in indirect interference with interstate commerce. For example, local rates from St. Louis to Kansas City substantially determine the interstate rates from Chicago to Kansas City.

The right of the states in this regard results from the following proviso in the first section of the interstate commerce act:

> "Provided, however, that the provisions of this act shall not apply to the transportation of passengers or property, or to the receiving, delivering, storage or handling of property, wholly within one state, and not shipped to or from a foreign country from or to any state or territory as aforesaid."

The Supreme Court, in the Shreveport case, commenting on this proviso, said:

> "Congress thus defined the scope of its regulation and provided that it was not to extend to purely intrastate traffic. It did not undertake to authorize the Commission to prescribe intrastate rates and thus to establish a unified control by the exercise of the rate-making power over both descriptions of traffic. Undoubtedly—in the absence of a finding by the Commission of unjust discrimination—intrastate rates were left to be fixed by the carrier and subject to the authority of the states or of the agencies created by the states. This was the question recently decided by this Court in the Minnesota rate cases (230 U. S. 352). There, the State of Minnesota had established reasonable rates for intrastate transportation throughout the state and it was contended that, by reason of the passage of the act to regulate commerce, the state could no longer exercise the state-wide authority for this purpose which it had formerly enjoyed; and the Court was asked to hold that an entire scheme of intrastate rates, otherwise validly established, was null and void because of its effect upon interstate rates. There had been no finding by the Interstate Commerce Commission of any unjust discrimination. The present question, however, was reserved, the Court saying (230 U. S. 419): 'It is urged, however, that the words of the proviso' (referring to the proviso above mentioned) 'are suscep-

> tible of a construction which would permit the provisions of Section 3 of the act, prohibiting carriers from giving an undue or unreasonable preference or advantage to any locality, to apply to unreasonable discriminations between localities in different states, as well when arising from an intrastate rate as compared with an interstate rate as when due to interstate rates exclusively. If it be assumed that the statute should be so construed, and it is not necessary now to decide the point, it would inevitably follow that the controlling principle governing the enforcement of the act should be applied to such cases as might thereby be brought within its purview; and the question whether the carrier, in such a case, was giving an undue or unreasonable preference or advantage to one locality as against another, or subjecting any locality to an undue or unreasonable prejudice or disadvantage, would be primarily for the investigation and determination of the Interstate Commerce Commission and not for the courts.'"

Hence, gentlemen, until the law is changed, the railroads must continue to be harassed and embarrassed by the joint regulatory control of the Interstate Commerce Commission and of the Commissions of the several states through which their lines respectively run, to their own detriment and that of the public as well.

What the public demands and is most interested in is good and safe and speedy service, and to insure this the railroads must be permitted to earn sufficient revenue to supply good track, adequate terminals, high-power engines, first-class equipment, high-grade men, and, after paying the costs of operation and maintenance and meeting the burdens of taxation, have enough left to pay reasonable dividends to stockholders and to create a surplus fund to establish their credit upon a firm foundation and to meet the deficiencies of lean years. Then and only then can new capital be successfully invited to invest in capital stock for the necessary extensions and improvements which the commerce of the ocuntry demands.

How can this result be brought about? Not by continuing the regulation and control of the railroads by forty-nine masters, one Federal and forty-eight state, for that has been tried through a long series of years and proved a disastrous failure. While these masters often pull at cross purposes, they seem to have been of one mind for the most part in keeping rates down to an unreasonably low level. If the railroads are to be owned and operated by private corporations and their duty to the public and to the stockholders properly performed, there must be one master and that master must be the United States, because from seventy-five to ninety per cent of commerce is interstate, and the small percentage of local commerce is so inextricably interwoven with the commerce which is purely interstate that its control should be vested in the same master, in order that such commerce may be free and untrammeled. In regard to this matter, the Supreme Court has spoken with no uncertain voice:

In Brown v. Maryland, 12 Wheaton 419, the Court said:

> "It has been observed that the powers remaining with the states may be so exercised as to come in conflict with those vested in Congress. When this happens, that which is not supreme must yield to that which is supreme. This great and universal truth is inseparable from the nature of things, and the Constitution has applied it to the often interfering powers of the general and state governments, as a vital principle of perpetual operation."

And again, in the Minnesota rate case, 230 U. S. 352, the Court said:

> "There is no room in our scheme of government for the assertion of state power in hostility to the authorized exercise of Federal power. The authority of Congress extends to every part of interstate commerce and to every instrumentality or agency by which it is carried on; and the full control by Congress of the subjects committed to its regulation is not to be denied or thwarted by the commingling of interstate and intrastate operations. This is not to say that the nation may deal with the internal concerns of the state, as such, but that the execution by Congress of its constitutional power to regulate interstate commerce is not limited by the fact that intrastate transactions may have become so interwoven therewith that the effective government of the former incidentally controls the latter. This conclusion necessarily results from the supremacy of the national power within its appointed sphere."

And, in the Shreveport case, in regard to this same matter, there is this most impressive phrase:

> "We are not unmindful of the gravity of the question that is presented when state and Federal views conflict. But it was recognized at the beginning that the nation could not prosper if interstate and foreign trade were governed by *many masters*, and, where the interests of the freedom of interstate commerce are involved, the judgment of Congress and of the agencies it lawfully establishes must control."

A joint committee of the Senate and House of Congress is now engaged in an elaborate investigation of the whole subject of regulation of interstate carriers, with a view to the passage of a comprehensive law upon the subject. The proposal of the railroads is that that law should provide for the compulsory Federal incorporation of all carriers engaged in interstate commerce and for the entire regulation of their activities by the Federal authority, except in the matter of police regulation and taxation, which would still and properly be left with the states. That such compulsory incorporation requirement would be constitutional there is no reasonable doubt. I have not the time to discuss the subject. If any member of this Association questions it, I refer him to the masterful argument of Mr. Alfred P. Thom before the joint committee, now in government print; to the opinion of that great lawyer, the late Hon. Richard Olney, presented to the committee by Mr. Thom and included in the same print, and to the able article of Mr. Charles W. Bunn in the Harvard Law Review for April, 1917.

The proposal of the railroads covers not only the regulation of all rates, state and interstate, but of operation as well, and also the issuance of stocks and bonds, which last has been and is a great source of trouble and delay to system lines, traversing several states, compelling them to apply to the various state commissions for authority, and in many cases to pay exorbitant —not to say extortionate—fees. The proposal as to the regulation of all rates includes the power to fix minimum rates so as to prevent demoralization of the rate fabric by the cutting of rates below cost by some weak line to get business and temporarily avert disaster.

The proposal also contemplates that the rate making and other quasi-legislative functions of the Federal authority shall remain with the Interstate Commerce Commission, while the administrative functions shall be vested in another body to be created. It has been a cause of just and serious criticism, acknowledged by many members of the Commission themselves, that under the present law the Commission is both prosecutor and judge in the same case.

To give proper weight to local circumstances and conditions, the proposal of the railroads contemplates the creation of Regional Commissions in different sections of the country, which will sit and hear complaints as to rates and other matters in their respective localities and make report of their findings to the Interstate Commerce Commission, following in this regard the practice of courts of equity in hearings before masters. These Regional Commissions will undoubtedly be selected from among the best of the state commissioners. Should such legislation be enacted, it is hoped and reasonably to be expected that the Interstate Commerce Commission will take a broad and comprehensive

view of the whole railroad situation as a national problem, give absolutely necessary increases of rates promptly and ungrudgingly, and so administer its functions as to do exact justice to the public and to the railroads as well. A Commission clothed with such powers and charged with such responsibilities will have appointed to its membership, it is to be hoped, the ablest men whose services the President can command. Certainly no field of human endeavor could be more inviting where the performance of duty would bring such beneficent results. Then the railroads will be able to render good service and to prosper, and it is within the experience of all intelligent men that when the railroads are prosperous, business prosperity also prevails.

The experience of the Railroads' War Board thus far demonstrates that under the proposed legislation provision should be made for pooling and for the consolidation of parallel and competing lines, all by the authority and under the control of the Commission. Railroad rates being regulated by law, all reasons for prohibiting pooling and the consolidation of competitive lines have disappeared.

In this connection, it is significant to note that, in one of the sessions of the joint committee, when that great English student and publicist, Mr. W. M. Acworth, the leading authority, by general recognition, on railway questions, was a witness, Senator Cummins, a member of the committee and himself a close student of railway affairs, made the suggestion that one difficulty in the adjustment of rates under present conditions was found in the fact that rates which might provide a satisfactory financial return for strong companies would not enable other weaker lines to operate on a remunerative basis. He inquired as to the feasibility of a plan that would permit existing strong systems to purchase other less successful lines, or that would provide for the incorporation of companies under Federal charter to acquire and combine existing lines so located as to supplement one another.

"I believe that is a very practical policy," said Mr. Acworth. "It could not be done by hard and fast orders to do it instantly, but if you encourage one governmental supervision and a policy of consolidation, I have no doubt that would work itself out in the course of time. That is what is happening in England and has been for a good many years."

If sole Federal regulation of railroads engaged in interstate commerce can not be secured the inevitable alternative is government ownership in the comparatively near future, unless there is a complete change of attitude on the part of the various

commissions, which is hardly to be expected. Such ownership may be a wise policy in an autocratic government such as Germany, where the military idea is dominant, and the state swallows up the individual, but it is utterly unsuited to a democracy such as ours, where peace, except in an occasional crisis such as exists today, is the prevailing note and the widest latitude, consistent with the public welfare, is or should be given to individual initiative and enterprise.

In his book on "Railroad Transportation, Its History and Its Laws," President Hadley of Yale well said:

> "The English and American maxim is, that whatever can be done *without* government, should be thus done. The Continental principle is that whatever can be done by government, should be."

Charles Francis Adams, that great American, in writing upon this subject many years ago, truthfully said:

> "In applying results drawn from the experience of one country to problems which present themselves in another, the difference of social and political habit and education should ever be borne in mind. Because in the countries of Continental Europe the state can and does hold close relations, amounting even to ownership, with the railroads, it does not follow that the same course could be successfully pursued in England and America. The former nations are by political habit administrative, the latter are parliamentary. * * * Now, the executive may design, construct, or operate a railroad; the legislative never can. A country, therefore, with a weak or unstable executive, or a crude and imperfect civil service, should accept with caution results achieved under a government of bureaus."

Mr. Acworth, the noted English expert on railway questions, from whom I have already quoted, says:

> "I am inclined to think that the effect of the evidence is that the further a government departs from autocracy and develops in the direction of democracy, the less successful it is likely to be in the management of railroads."

With the exception of Germany, where the freight rates are

higher than ours and the service, both freight and passenger, not so good, old equipment and methods being adhered to, the experience of other countries, where the railroads, in whole or in part, are owned by the government, and only about one-third of the railway mileage of the world is so owned, has been far from satisfactory. It is a sad story of graft, political mismanagement, inefficiency, and financial disaster. A few illustrations must suffice.

Mr. Acworth, in the hearing before the Senate committee, already referred to, quoted the President of the Austrian Chamber of Deputies as describing the result of the state's administration up to 1910, as follows:

> "We have always been in favor of the state taking over the railways, but if we had been able to foresee the results of the management, I assure you we would have hesitated a little longer. We are still in favor of the principle, but it does not seem to us that our government has performed a remarkable feat when it has succeeded in creating a deficit on the Northern Railway. The government have enlisted an army of new employes; they have gone much too far in the reduction of hours of labor; instead of commercial management they have appointed lawyers to posts that require business men or experts; they have established an entirely unpracticable bureaucracy. At the present moment we are face to face with a deficit of $25,000,000. There would be no deficit at all if the return from our railways were that which it ought to be. I repeat that absolute imbecility has characterized the taking over of our railways. We must introduce business ideas into the government service."

The Northern Railway, in the five years preceding its being taken over by the government, and while being operated under private management, brought a return of twelve per cent on an average.

In France, while most of the railways are privately owned and operated, the government took over the Western, one of the six great systems in 1909. It ran through a poor country, and even while privately owned and operated had never earned its guaranteed dividend, the deficit being met by the state. The argument for its acquisition was that the state would operate it

more economically. What are the facts? I again quote from Mr. Acworth:

> "During the last ten years of company management the state had to pay an average of $2,894,280 a year to meet its liability under the guarantee to make up the deficiency in net operating income. During the first three years after the transfer the sums it had to find under the same head were $6,753,320, $8,875,792 and $14,934,484, respectively. For the year 1913 the figure was $14,752,237.
>
> "Nor do these deplorable financial results tell the whole story. The service to the public was absolutely demoralized. There were several very serious and numerous smaller accidents, and the staff and the public got so frightened that the express trains on the main line, already the slowest in France, were decelerated down to a timing that had been abandoned as inadequate in 1896. In addition, a number of trains were suppressed altogether. Commuters on the system in the suburbs of Paris were compelled by their employers to live elsewhere because of the unpunctuality of their arrival at their work. Compensation for accidents, loss and damage, averaged some $400,000 or $500,000 a year in the last days of the company. In 1911, the figure was $2,045,291. The minister of public works himself publicly criticised the state administration as a 'frightful fraud.' And the Senate passed unanimously a resolution beginning: 'The deplorable situation of the state system, the insecurity and irregularity of its workings.'"

As to this same railway, a graphic example of red-tape methods in government mismanagement is furnished by the following letter of a station master read in the French Chamber of Deputies, according to M. Leroy-Beaulieu:

> "In the time of the Western Company, we station masters had orders to use the rolling stock as quickly as possible, and to send to a given station all that we did not ourselves require. Under the State all is changed. Every station master is forbidden to load any wagon without the orders of the distribution bureau of the district. This bureau is, as is well known, a new creation specially designed for the purpose of finding situations for so many more bureaucrats. Recently, having received two wagons loaded with horses, accompanied by an order to send these wagons to Caen after they were unloaded, I thought to do well by loading in these two wagons 200 sacks of grain, which had been waiting in the sheds for several days to go to Caen. But, alas, I did not know the bureau of distribution. The next day I saw my two wagons return, and I received at the same time an order to unload them. I was reproved into the bargain for excess of zeal. I had to obey the order. That evening I sent the wagons empty to Caen. Next day I received two others, also empty, in which to load the grain."

The results of government ownership and management of railroads in Canada should shed great light on what its effect would be in the United States.

Mr. Samuel O. Dunn, editor of the Railway Age Gazette, one of the leading American authorities on railway questions, says in his paper on "The Failure of Government Ownership in Canada," relative to the government-owned Intercolonial Railway:

> "That there long was scandalous waste in the construction of the Intercolonial is beyond question. Many years ago Sir Alexander Galt moved in Parliament that 'the present system under which the road is being built as a public work of the Dominion is expensive and unsatisfactory; * * * and that in the opinion of this house the construction and future operation of the line should be committed to private hands.' Walter Shanly, the most eminent Canadian engineer of his day, who built the Hoosac tunnel, alleged that the Intercolonial 'had already involved a vast waste of money and one much to contaminate public life.' Sir John MacDonald, when prime minister, said that he was 'tired of the disclosures about frauds and shortages, bankrupt contractors, and contractors who had made a fortune with suspicious ease, and was disposed after construction was completed to turn over the operation of the line to the Grand Trunk or some other company.' Before the Civil Service Commission of 1892, Collingwood Schreiber, a distinguished engineer, then deputy minister of railways, and for some years general manager of the line, testified that he had taken some sand from a gravel-pit in the woods near Gloucester Junction for which he offered $5 as ample compensation. The owner, backed by local politicians, demanded $70,000, and in the end obtained $16,000. 'The public's mind,' said Mr. Schreiber, 'is pervaded with the idea that one has a right to get all one can from the public treasury!' The original estimate for an extension from Hadlow, near Quebec, to St. Charles Junction, fourteen miles long, was $600,000. Property owners whose land and buildings were condemned appealed with such success to local politicians for assistance, 'and swore one for another as to values,' so ably, that the line finally cost $2,200,000. It seems to have been a common practice to let contracts for new construction and improvements to concerns and individuals because they were supporters of the party in power."

The Montreal Gazette of October 21, 1915, contained the following article as to the management of the Intercolonial:

> "Almost every abuse known to railroading took root and flourished, such as underbilling—that is, permitting a favored shipper to load the cars with a larger quantity of goods than he paid for, while his competitors on the other side of politics were restricted to a standard load

and mulcted for any excess; the granting of secret rebates; the maintenance of an excessive number of stations and employes in order to swell the political influence of the road at election times; absurd classifications; unjust tariffs; the acquisition of more or less useless branch lines to serve partisan ends, and so on."

Mr. Dunn, after referring to this article, adds:

"It was common practice largely to increase the number of employes some weeks before election, and every officer of the road frequently had the experience of coming to his office and finding among his subordinates the faces of men he had never seen before, and who had been put on his pay-roll at the instance of politicians. If an influential politician wanted a man given a job on the railway, he did not bother to take up the matter with the general manager or even with the division superintendent. He wrote a letter to the trainmaster or the roadmaster and ordered his friend and supporter employed. If an employe was discharged for incompetency or other good cause, he could usually get reinstated if he had political pull. When business fell off, politics made it impossible to reduce the number of employes and operating expenses proportionately. Political influence was used not only to secure excessively large and expensive passenger stations, but also unnecessary and unprofitable passenger and freight service."

Just one illustration borrowed from our own country. Unless a man has been very close to the early history of American railroads, even those engaged in the railway business, he may not have known with any degree of accuracy, and perhaps not at all, that in the early history of railroads of this country there were some experiments in government ownership, or at least state ownership.

Mr. Dunn says:

"In the earlier history of railways, a number of lines were built by individual states in this country. In every instance evidence was afforded that under government ownership politics is likely to corrupt the railroad management and the railroad management to corrupt politics. The experience of North Carolina is typical. The North Carolina Railroad, which was built by the state, began at Goldsboro and was laid out in the form of a horseshoe, which disregarded both physical and traffic considerations. Its historian (Judge Womack, formerly on the state supreme bench), explains that unless the road 'had gone to the home of Governor Morehead, had passed by Hillsboro, the home of Secretary of the Navy, Governor and United States Senator Graham, and other distinguished men, had taken in the State Capital in its

> route, and terminated in the midst of the descendants of the signers of the Mecklenburg Declaration of Independence, it could not have come into existence at all.' 'So long,' he adds, 'as the state attempted to operate it, the political factions along its route had to be appeased by seats in its directorate, and favors more or less discriminating were a necessity both to individuals and to influential centers.'"

Mr. Acworth, when before the Senate committee, made this interesting comparison between the railways of Texas, privately owned, and those of New South Wales, owned by the government:

> "Texas has over 15,000 miles of railway, against 4,000 in New South Wales, giving a mile of line for every 259 inhabitants of Texas, as against a mile of line for every 412 inhabitants in New South Wales. The average ton mile freight rate in Texas in 1915 was less than one cent (.995), and the average rate in New South Wales for the same year was 2.20 cents, or more than double. Moreover, the private railways of Texas performed for the Texas public nearly four times as much work as the government-owned railways of New South Wales performed for the public of that state."

President Hadley has summed up the conclusions of the Italian Railway Commission, based on the railway experience of the world, as it existed thirty-five years ago, as follows:

> "(1) Most of the pleas for state management are based upon the idea that the state would perform many services much cheaper than they are performed by private companies. This is a mistake. The tendency is decidedly the other way. * * * The state is much more likely to attempt to tax industry than to foster it.
>
> "(2) State management is more costly than private management. * * *
>
> "(3) The political dangers would be very great. Politics would corrupt the railroad management, and the railroad management would corrupt politics." * * *

Those conclusions, after thirty-five years, I believe, and submit to you, the record will show are still sound.

What would government ownership by the United States involve?

It would involve the purchase of the railroads at a cost of between fifteen and twenty billions of dollars,—no mean sum, even in these war times when we have first begun to think in

terms of billions—and the employment and supervision of some seventeen hundred and fifty thousand employes.

I have referred to the experience of other countries with government ownership, and of our own in early railway history. But we are not without warnings against it in our own country, of very recent date and at the present time. President Taft had a commission to examine into present government methods and expenditures, whose report was pigeon-holed by Congress, and in public addresses during the past four years he has told of the woeful waste, extravagant expenditure and duplication of service which that commission, after thorough investigation, discovered.

The late Senator Aldrich, one of the wisest and most astute men of his generation, estimated that the work of the government cost at least three hundred millions more per annum than it ought or would if conducted on a business basis.

The so-called "pork-barrel" appropriations made at every session of Congress for the alleged improvement of creeks, rivers and harbors and the erection of public buildings show, in a graphic way, what might be expected from a government administration of the railroads, not by a single executive, with autocratic powers, but by a legislative body, running into the hundreds, with the demands of constituents, running into the millions in the aggregate, clamoring for favors in the way of railway construction, service and rates.

When the great body of organized railway employes came to be dealt with, demands of labor leaders for more pay under threats of strikes, would, owing to their supposed political influence, be met with hurried legislative increases of wages, as was demonstrated by the passage of the Adamson act, with which we are all familiar, about a year ago. Whatever we may think of the merits of that act, and notwithstanding its validity was sustained by a bare majority of the Supreme Court, every liberty-loving lawyer, who believes that this is a government of laws, passed after thorough investigation and upon calm deliberation, and not a government of men, forcing hurried legislation almost over night under threats of paralyzed commerce, must have hung his head in shame that such things could be.

And even after the Supreme Court, in sustaining the act, because the railroads and the employes were engaged in a public service, held that Congress had power to compel the arbitration of disputes and make concerted strikes or conspiracies to strike a criminal offense, Congress utterly failed even to initiate any legislation of this character. What prospect would there be to pass such legislation if the great army of railway employes became the employes of the government, with their political influence largely solidified and increased, almost, if not entirely, holding the balance of power in a closely-contested election?

Even if political administration should be reasonably curbed or restrained, which is a most violent supposition, the red-tape incidental to government business methods would so retard railroad construction, necessary improvements of facilities, correction of defects in maintenance and operation, remedying of abuses, responding to requests of shippers and passengers for relief, that our last condition would be far worse than the present.

Besides, there would naturally be loss of initiative on the part of the heads of the government railways and their subordinates, in entering new fields of railway enterprise, and occupying strategic points for railway construction and development. The pressure for branch lines, rather than the improvement of the chief parts of present systems and their extension, would be so great that, while individual communities might benefit, the public at large would suffer.

In view of the history of other countries in the matter of government ownership, in the light of the record of our own country in managing some of its business affairs, and in its appropriations of public money, let us not run the risk of undermining our institutions by fostering a movement looking to the acquisition and management of the railroads by the government.

In order to prevent this otherwise inevitable result, let us recognize the railroads as a great agency for the public good, whose prosperity is essential to the public welfare, and in order that they may have rates, both freight and passenger, high enough to enable them to meet the demands of a constantly expanding commerce in the way of improved and extended facilities, let us support a policy which will put the railroads under one responsible master, whose watchwords will be justice and fairness to the owners of the railway property as well as to the public whom they serve.

(Loud and prolonged applause.)

JUDGE HARRIS: Mr. Chairman, I move you now, sir, we take a recess until 2 o'clock. It is now nearly 1.

MR. J. C. JONES: Second the motion.

THE PRESIDENT: Before we take the recess, gentlemen, I want to say that no lawyer can sit here and hear this splendid address of Gardiner Lathrop's without being convinced of its justness, its logic and its appropriateness. No man, in my judgment, who is a lawyer, would hesitate for a moment to arrive at the conclusions he has reached, and I take this occasion, Mr. Lathrop, to thank you on behalf of the Association for this able address.

The motion to adjourn is now in order. All in favor will signify by saying "Aye".

Motion carried.

Thereupon, a recess was taken until 2 o'clock p. m., at which time the Association convened, and the following proceedings were had, that is to say:

SATURDAY, SEPTEMBER 29, 1917.

AFTERNOON SESSION.

THE PRESIDENT: Gentlemen of the Bar, I now call on Mr. E. A. Krauthoff to make a report from his committee, of which he is chairman, the Committee on Uniform State Laws.

This report, being read by Mr. Krauthoff, was as follows:

REPORT OF COMMITTEE ON UNIFORM STATE LAWS,

MR. E. A. KRAUTHOFF, CHAIRMAN.

Mr. President, Gentlemen of the Association:

If personally I were called upon to answer the question of the greatest honor that has been paid to me at the hands of my native state, I should be constrained to answer it was the privilege of representing Missouri in what is known as the National Conference of Commissioners on Uniform State Law. There have been sent as delegates to that conference, from time to time, from Missouri, such men as G. M. Shankelburg, Francis M. Black, Seneca N. Taylor, Williams & Williams, John D. Lawson. The present commissioners in that conference are Mr. Frederick N. Judson, St. Louis; Mr. Manley O. Hudson, of the University of Missouri, and your humble servant.

The conference had its origin in the year 1892, being called at Saratoga Springs, New York, as an adjunct to the American Bar Association. It has gone on from that day to this, until now, having had twenty-seven sessions, has an accredited representative from the forty-eight states of the Union, the District of Columbia, Porto Rico, Alaska, Hawaii and the Philippine Islands, and it is a very great pleasure, it is also of very great profit, to sit about a room in which such law professors are present as Williston of Harvard, Burdick of the University of New York City, Burdick of Kansas, Freund of the University of Chicago, Wigmore of the Northwestern University, William Draper Lewis, dean of the University of Pennsylvania, and other professors of law that might be mentioned, to find in the room lawyers of standing from all over the country, judges of courts of last resort, and to spend in such an atmosphere a day and a half, for instance, in the discussion of a proposed law governing conditional sales, a law which, when framed, is supposed to be so inimical that it will merit the enactment of the forty-eight states, and these other jurisdictions we have mentioned.

MR. WILLIAMSON: Pardon me, what kind of sales did you say, Mr. Krauthoff?

MR. KRAUTHOFF: Conditional sales.

This conference, as I have said, has worked out in these

twenty-six years of its existence—twenty-five years to be exact—a negotiable instrument act, which has been adopted in forty-six states of the Union. It is also the law in Alaska, the District of Columbia, Hawaii and the Philippine Islands. The warehouse receipts act has been adopted in thirty-five states of the Union, and Alaska, the District of Columbia and the Philippine Islands.

The bills of lading act has been adopted in nineteen states.

The sales act, adopted in seventeen states;

The stock transfer act, adopted in eleven states and Alaska;

Desertion and non-support, seven states and Hawaii;

Probate of foreign wills, in eight states and Alaska;

Marriage evasion, in four states;

Partnership, in six states and Alaska;

The Toreens land registration act in three states;

Workmen's compensation act in two states;

The extradition act in two states, being the extradition of persons of unsound mind;

The cold storage act in two states.

On one subject, the extradition of persons of unsound mind, the conference became a pioneer. There was no law at all on the subject, and so it was thought wise to frame an uniform law on the extradition of persons of unsound mind. It may interest you to know that in the existing state of the law, if a person of unsound mind, so adjudicated in Missouri, was to escape and go to a neighboring state, there is no process of returning that person to the state of his domicile without committing a trespass on his person of going and taking physical possession of him and bringing him back by force of arms.

In other of the laws the conference worked out they have worked more as a modifier than a creator.

Take the existing law with respect to money seizures, of which existed a contrariety of opinion, an unified law on this subject. For instance, in Missouri we adhered to the idea one time that the payment of attorney's fees, or the clause requiring the payment of attorney's fees, a promissory note prevented it from being negotiable, a rule that was not followed in the Federal courts in Missouri. In Missouri, at one time, a person who executed a note by signing his name on the back of it, in which he was not the payee, was treated as the maker; in other jurisdictions he was treated as the endorser. An uniform rule has been adopted on many of these questions.

Missouri has adopted three of these laws: The negotiable instruments act, the warehouse receipts act and the bills of lading act. Personally I think the most costly joke that was ever perpetrated in the legal profession is the incident so freely related of the old-time practitioner, who was examining a young man for admission to the bar. The young man said he did not know much common law, but he was exceedingly well versed in the statutes, and thereupon this old-time practitioner, with some disdain said, "Why, young man, the last Legislature may repeal all you know about the statutes."

Of course, that is true. It is equally true the next Legislature may repeal all anybody knows about anything. But in some way or other, the legal profession has been educated along the line

to enact statutes. It may be that, having been born in a city which produces legislation (Jefferson City), I have an active sense of the necessity of studying statute law, but it is a remarkable thing that in nearly one thousand of the cases that have arisen under the negotiable instruments act, the rule, the statutes of which are all governed by the principles laid down in the act, covers thirty-five per cent of the cases, neither the Court nor counsel knew there was such a thing in existence. In the St. Louis Court of Appeals a case arose where a bank paid a check the signature to which had been forged, and the bank sued the endorser on the ground the endorser, by endorsing the check, warranted the genuineness of the signature of the maker of the check, and the endorser defended on the ground the bank was supposed to know the signature of its depositors, and having paid the check, the question was at an end. Judge Reynolds of the St. Louis Court of Appeals, in his opinion, said that the Court has been favored with an elaborate brief by counsel on both sides, one of whom was a bank lawyer, paid by the year, in which neither side had recited the negotiable instruments act, and both sides had begun with a decision by Lord Mansfield, rendered some time in 1730, and from that day to this, traced carefully the law on the subject, when all the time that section in the negotiable instruments act of the law in Missouri is at the time of the case in question governing.

In passing, I may say no more valuable exponent of the negotiable instruments act is living than Judge Reynolds of the St. Louis Court of Appeals. He has rendered exceedingly valuable services to the question of uniformity in judicial opinions by the work he has done in interpreting the negotiable instruments act of Missouri.

There is another curious thing about it which illustrates how non-progressive the legal mind is. The theory of the legal mind is that no change is ever made unless the change is overwhelming. In other words, the theory of the legal mind is that when a law is passed, it is supposed to change the existing law as little as possible. And, accordingly, in Louisiana, this question arose. I mention this because I think it is of very vital interest to the interposition of any uniform negotiable instruments act. A man in Louisiana took cotton to a warehouse and received a negotiable warehouse receipt. (This is the warehouse receipt act.) He thereafter borrowed the cotton from this warehouse by giving what is called a trust receipt, in which the legal rights of the parties was not changed, and the person who had put up the cotton in the first place held it thereafter for the warehouse. Then, being in possession of this cotton, the cotton was taken to ———, or a foreign exchange, but its identity was not lost, and then put in another warehouse and another warehouse receipt was obtained. And then the man who had engaged in all these transactions failed, and two banks appeared; one had the first warehouse receipt as a negotiable instrument under the warehouse receipt act; the other had the second warehouse receipt. The question was, who was entitled to the cotton? The case went to the Supreme Court of the United States, and it was there solemnly argued that the previous law of Louisiana had been

so and so, and that this act should be so construed, that it reflected the light of the previous law, and was in reality a crystallization of the statute law of a previous unwritten law of Louisiana, and in one of the great opinions, where Mr. Justice Hughes displayed a commercial education as a practicing lawyer in the City of New York, rendered by the Supreme Court of the United States, it was pointed out that the vital effect of an uniform law was not to carry on the previous discontent of conditions existing in the several states, but was to make uniform the law of the several states upon the subject treated, and that the uniform law must be so construed as to accomplish the purpose of this enactment, and to make uniform the law of the several states upon the subject and not continue in force the various discontent with the conditions that had theretofore prevailed.

Now this conference is purely a labor of love. As I said, it has accredited representatives from forty-eight states. They do not always attend. It is, however, a very great honor to be present and hear the roll of states called, and to find that you are in a room with some twenty-six or thirty states represented, and to be privileged upon that occasion to vote the State of Missouri, as the case may be, either I or another. The votes are not called by individuals. They do not say "Mr. Judson, Mr. Hudson, Mr. Krauthoff," but they call "Missouri," and if one of us happens to be present, as sometimes it has happened, that one individual has the privilege of voting the sentiments of three million people, and that privilege has come to me, and sometimes Mr. Hudson has been there and he has done it, and sometimes we have done it together.

And now coming back. It was a year ago you created the Committee on Uniform State Laws. The State of Missouri now takes a more active interest in the subject of uniform state law. As we said a moment ago, only three of them have been adopted in the State of Missouri, none of them through the active legal profession. One, the negotiable instruments act, owes its existence to the fact a banker at Macon, Missouri, Mr. Harry M. Rookey, became a candidate for the Legislature and stayed with the bill until it was passed. The warehouse receipt act was passed because the warehouse men displayed interest and became active in support of it. The bills of lading act was passed because it had the support of the bankers of the state. And those of you who as practicing lawyers are interested in the subject of bills of lading will do well to study the uniform bills of lading act, found in the 1917 Session Acts, because upon one thing, at least, it changes the concept of the law that has heretofore prevailed in Missouri, namely, that a bill of lading issued by a common carrier at a time when the common carrier did not have the goods was null and void. That has been the theory that has prevailed in Missouri prior to the passage of the bills of lading act. Under the bills of lading act, a carrier issuing receipts for goods that he does not obtain possession of becomes responsible to whoever purchases a negotiable bill of lading. I only mention that as one; you would do well to study the whole act on the subject.

Now we offer the following resolutions:

> **"1. We endorse the movement for uniform state laws and recommend to the General Assembly of Missouri, a study of the legislation approved by the National Conference of Commissioners of Uniform State Laws, with a view of its enactment in Missouri.**
>
> **"2. We recommend legislation giving authority for the appointment of commissioners in the National Conference of Commissioners on Uniform State Laws, and an appropriation out of state funds for the expense of the commissioners and to the expense of the conference.**
>
> **"3. We recommend a study of the subject of uniform state laws by the bench and bar of Missouri.**
>
> **"4. We recommend the Missouri Bar Association appropriate one hundred dollars ($100) annually for the work of the conference."**

Mr. President, with your consent, I will read these separately:

> **"1. We endorse the movement for uniform state laws, and recommend to the General Assembly of Missouri a study of the legislation approved by the National Conference of Commissioners of Uniform State Laws, with a view of its enactment in Missouri."**

I have not undertaken, in that resolution, Mr. President, to endorse the terms, the language of these laws, because they are quite extensive in their provisions and to fully comprehend them requires considerable time. I do not feel that, situate as we are, with our principal cities on our borders becoming, as we all know, a nation in the transaction of our business, the movement itself should be endorsed, and that the Legislature of Missouri should give more attention to the subject of uniform state laws than has been given to it. I move the adoption of that resolution.

THE PRESIDENT: Gentlemen, you have heard the resolution that goes to that part of the resolution, that we recommend the consideration and attention of the Legislature to a consideration of the general uniform law proceedings that has heretofore been referred to. Are you ready for the question?

Motion seconded and carried.

MR. KRAUTHOFF: The second resolution of the committee's report is as follows:

"We recommend legislation giving authority for the appointment of commissioners in the National Conference of Commissioners on Uniform State Laws, and an appropriation out of state funds for the expense of the commissioners and to the expense of the conference."

Now, in explanation of that, I may say that in many states these commissioners exist by virtue of legislative authority giving the Governor power to appoint them. No such authority existed in Missouri. At one time there was an act of the Legislature of Missouri that gave such authority, and then for some reason the act was repealed. My own credentials in the National Conference of Commissioners on Uniform State Laws consist of a letter written by Governor Hadley, in which, at the request of the conference, he named three gentlemen, one of whom I was, and that letter has never been revoked, either by Governor Major or Governor Gardner. We feel that in Missouri we are entitled to some affirmative official statute. We feel also that Missouri should not be limited in its choice of commissioners to those gentlemen who are able to pay their own expenses to the conference. We think that the Governor should be free to select any one as commissioner from Missouri, and that, as a citizen of Missouri, making a trip, as we have—Mr. Taylor did, I think, in ten years, travel from Portland, Oregon, to Portland, Maine, practically; at Salt Lake City, Utah, one year, Chicago, Illinois, Saratoga Springs,—that expense should be paid by the state in whose service the work is done. In addition the conference itself has no independent means of support. It is required to hire experts to write these bills. These bills are written by professors who are paid for them. They are the subject of discussion, year after year. There are questions of printing, questions of publicity. I have the privilege of being the chairman of the Committee on Publicity of the Conference. And there are other expenses that should be met, and we feel that the State of Missouri should not be behind its sister states in its contribution to the work of the conference. I move the adoption of that resolution.

THE PRESIDENT: Will you read that resolution again, Mr. Krauthoff?

MR. KRAUTHOFF: "We recommend legislation giving authority for the appointment of commissioners in the National

Conference of Commissioners on Uniform State Laws, and an appropriation out of state funds for the expense of the commissioners and to the expense of the Conference."

THE PRESIDENT: That is to say, as I understand you, the resolution is that the Legislature shall authorize a contribution toward the expense?

MR. KRAUTHOFF: That the Legislature shall authorize the appointment of commissioners to the body, and pay their traveling expenses, and then contribute something like, say, two hundred and fifty dollars a year to the work of the National Conference.

THE PRESIDENT: Is there a second to this resolution, gentlemen?

Motion duly seconded and carried.

MR. KRAUTHOFF: The third resolution is:

> **"We recommend a study of the subject of uniform state laws by the bench and bar of Missouri."**

That is a thing that is in itself self-evident. I move the adoption of that.

Motion seconded and carried.

MR. KRAUTHOFF: Now, the fourth resolution, Mr. President:

> **"We recommend the Missouri Bar Association appropriate $100 annually for the work of the conference."**

I realize that we should not, on the floor of the convention, attempt to control the finances of the organization, because your Executive Committee has demands upon it and the Executive Committee should control the budget of the Association.

I move that the fourth resolution be referred to the Executive Committee, with power to make the appropriation if it sees fit to do so.

THE PRESIDENT: That is the one you have just read?

MR KRAUTHOFF: Yes, the one hundred dollars.

THE PRESIDENT: Gentlemen, the resolution now is with reference to appropriating one hundred dollars to the expense of the committee, to relegate it or refer it to the Executive Committee.

MR. KRAUTHOFF: I beg pardon; not one hundred dollars to the expense of our committee; one hundred dollars toward the general work of the General Conference.

THE PRESIDENT: I understand.

Motion seconded and carried.

THE PRESIDENT: Mr. Krauthoff offered a resolution the other day, which is in order to be taken up now and disposed of. Mr. Krauthoff, will you read the offer?

MR. KRAUTHOFF:

> **"Resolved by the Missouri Bar Association:**
> **"That the following schedule be approved and recommended to the bar of Missouri as the uniform rate for collections:"**

This respects your fees, gentlemen; maybe your attention will be attracted to it.

> **"Fifteen per cent on the first $300;**
> **"Eight per cent on excess of $1,000;**
> **"Four per cent on excess of $10,000;**
> **"Minimum fee for claims under $10, fifty per cent;**
> **"Minimum suit fee, $7.50 plus commissions, the whole not exceeding fifty per cent of the claim.**
>
> **"Resolved, further, the members of this Association be requested to call the attention of the members of the bar in their respective communities to this resolution and to procure from them their agreement in writing binding themselves to adhere to the schedule of fees herein approved."**

I am glad to see Mr. Lathrop present, because when I came to the practice at the Bar I looked up to him as one of the stars of the profession, and I understand from Mr. Lathrop that when he came to the Bar, somewhere in the dim distance, somebody started the idea it was worth ten per cent to collect a claim, and being exceedingly conservative, we, as lawyers, have adhered to this thought of ten per cent through the ages, but there is an organization known as the Commercial Law League of America, of which I have the honor to be a member, and at one time was the president of it (quite a number of the members of that organization are members of the Missouri Bar Association); that organization now has something like five thousand members in the

United States, and we feel that in that organization we have a representation that controls more than one-half of what may be called the commercial law business of the country, growing out of the handling of collections. That organization, in connection with Mr. Fifield of Minnesota, who publishes a Law List, has been giving in the last year a very great deal of attention to what we call the "readjustment of values". Some people say it is the high cost of living, and some people say it is the increase of prices, but it is thought to be more euphonious to refer to it as the "readjustment of values", and with the increase of every item of expense with which the practicing lawyer comes in contact that organization reached the conclusion it was proper that the sacred ten per cent should be replaced by fifteen per cent. That resolution was adopted at Saratoga Springs by that organization in July, and the five thousand members of that organization throughout the United States are being asked to agree to it and to make it effective. It is being done rapidly. We ask that this Association put itself on record as recommending this schedule. It is rather a proud moment in my life when I was able successfully to oppose the theory that the schedule should be made binding upon its membership. Some people thought that the schedule should be binding. I protested against any theory of ruling any organization by force at a time when we are seeking to make the world safe for democracy, so this isn't put as a binding resolution. This is merely put as a recommendation, and it carries with it the further suggestion that when you go to your respective homes you call the attention of the lawyers in your community to it, and that you get together. Mr. Lathrop told us this morning the Sherman Act had been suspended. And I suggest that you get together and have the attorneys of your community agree upon this revised schedule of charges, and I hope that the secretary will find time to have this printed and sent out immediately, without waiting for the annual report—that is, if it is adopted.

I move the adoption of this resolution.

MR. LAMAR: I second the motion.

MR. KRAUTHOFF: Personally, Mr. President, I should much prefer this be made the subject of discussion. I wouldn't

want it regarded merely as a matter of form, like some people say, "Adopt a platform and then forget it." I would rather have you talk about it and think about it, then go away and have it mean something, rather than think of it merely as one of the incidents of the occasion.

VOICE: I think it ought not to be less than ten dollars.

MR. KRAUTHOFF: We left that open. Of course, our League deals with national problems and in many of the large cities the fee is as low as five dollars.

Motion carried.

THE PRESIDENT: The next thing in order is a report from our friend, Mr. John I. Williamson of Kansas City, for the committee of which he is the chairman, "Constitution and Statutory Amendments". Mr. Williamson, of the Kansas City Bar. (Applause.)

MR. WILLIAMSON: Mr. Chairman—The report is brief, and not a sensation. Just a few little things that Mr. Lamar, Mr. Barbee and your humble servant thought should be brought to the attention of the Association.

> **"First. The constitutional convention. We recommend that a constitutional convention be called for a thorough revision of the State Constitution."**

The reasons for this recommendation have repeatedly been stated fully to this body, and for that matter have been urged upon the attention of the people of this State for several years. This Association for several years last past has annually advocated a new Constitution. However, without qualifying our belief in the necessity of a constitutional convention, we do not believe that such convention should be called during the present world war, for the reason, among other reasons, that it would be difficult, if not impossible, to secure requisite attention for one of this gravity and importance under the existing conditions. Unless the Association desires to go back on its record of several years' standing, I think there need be no discussion. I am not disposed to some other discussion in reference to the adoption of this resolution.

I move the adoption of this resolution:

MR. KRAUTHOFF: Mr. President, I do not think we ought to adopt that part of the report which says we should not

have a constitutional convention during the present world war. The reason that I say that is this: We are not going to win this war only on the battlefields in France. We are going to win it by national efficiency and state efficiency, and local efficiency, and individual efficiency. Everybody isn't engaged in war. The war isn't the sum total of our energies—I mean war in the sense of physical combat. We are meeting today as an Association. I believe we ought to go ahead in this work for a constitutional convention, without regard to the war, because through a new Constitution the State of Missouri might be more efficient in its support of the war.

I move that that part of the report which says that we do not recommend a constitutional convention at this time be not concurred in. As a substitute, I move that.

MR. MARTIN: Second the motion.

THE PRESIDENT: Mr. Williamson, as mover of the resolution, what have you to say, sir?

MR. WILLIAMSON: Nothing.

THE PRESIDENT: Therefore, the resolution, as I understand it, with that expunged, will stand in favor of recommending a constitutional convention.

MR. WILLIAMSON: Without any limitation whatever.

THE PRESIDENT: Without any limitation. The first question arises upon the amendment, as I take it. Mr. Krauthoff's amendment will be adopted eliminating the portion which provides that it shall be postponed during the war, therefore limiting it in effect to saying, we go upon record in favor of a constitutional convention. All in favor of the amendment?

MR. WITTEN: I don't believe that portion of the resolution ought to be amended. I don't believe it is possible when we have mentioned everybody assembled from the country, to get as good a constitutional convention as we could get at the end of this great war. Then conditions may be such that we might want to make a different kind of a Constitution from that we would make now. There might be some differences arise that we can not foresee. We can not foresee what tremendous changes may be brought about by that war, but a matter so serious as the making of a Constitution for this State ought to be done at a time when the public mind can be centered upon that, not merely the convention—that may

work—but the attention of the whole State. I think the wisest part of that resolution is that such work be deferred until after the end of the war.

MR. PALMER: Mr. Chairman, it occurs to me that is a legislative act. The next Legislature meets January 9, 1919. We still have another meeting of this Association before that Legislature meets. It seems to my mind it would make absolutely no difference whether this resolution goes through, as far as this body is concerned, when the next Legislature meets, or whether it goes through in the original form.

MR. KRAUTHOFF: Mr. President, if I might trespass again upon the time of the Association.

The State of Missouri is in a peculiar situation. It is having difficulty financing its affairs. Jackson County, too, is reported to be in financial difficulties. The Governor of Missouri may be called upon to call a special session of the General Assembly of Missouri for the purpose of considering the necessities of a constitutional convention. I am not undertaking now in the presence of our friend, Colonel Allen, who is one of the makers of the Constitution of 1875, to state whether the Legislature of the State is the only body that can initiate a constitutional convention. Can it be done in some other way? Will it not be done by the Legislature, the initiative of a constitutional convention?

MR. ALLEN: Mr. Krauthoff, I would think so, sir. I would think, therefore, that the power is with the Legislature only.

MR. KRAUTHOFF: But independent of that, gentlemen, we may need the constitutional convention in order we may do our share in supporting this war. We have all sorts of problems to meet in this war. We have, and when I was recently in Washington my attention was called thereto, what is known as a Council of National Defense. Mr. Lathrop spoke of it this morning. That has a branch known as the "Co-Operation of the States". That may call upon the various states of the Union for legislation, which their constitutions may not give them the power to enact. Now, we are going on record and saying there shall be no constitutional convention during the war period, because of this war. We might as well say: You can't eat because you are hungry. The very

fact you have a war may be the necessity for a constitutional convention. I am against any sense of limitation of any kind, and I am against saying, as a member of democracy, that democracy can not work when it has a war. Did you ever stop to figure the absurdity of that? We have gone to the world and said: We stand for the proposition the world shall be found to pay for democracy, for the rule of the people. And then we proceed to paralyze our transactions and say that in the present war every thinking function of our intellect is paralyzed, and at an end because democracy can only do one thing at one time, and that is wage war, and do that only in the most autocratic way, and then we say democracy is the thing the rest of the world should adopt.

MR. CHAS. M. HAY (St. Louis): Mr. Chairman, I just wish to make this suggestion. In view of our recent experiences, I don't think there is any grave danger of rushing the State into a constitutional convention, and it seems to me that the putting of this proviso on there, this condition, might have a tendency to lessen the expression of our desires in the minds of the people and the sentiments of the people for a constitutional convention; might tend to stop for the time discussion, for I think discussion is all there will be until the war is over, and I think we ought to have plenty of that.

THE PRESIDENT: The original resolution is based upon the theory that we favor a constitutional convention, but not during the war period.

Mr. Krauthoff's amendment is, and consists in striking out the war-period clause, and saying we are in favor of it anyhow. Therefore, the question arises upon his amendment. All that are in favor of it will signify it by saying "Aye".

Motion carried.

MR. WILLIAMSON: In view of the vote of the Association, Mr. President, I trust that no member of this body will accuse me of being radical, as I have heretofore been accused of being.

THE PRESIDENT: All in favor of the resolution as amended signify by saying "Aye".

Motion carried.

MR. WILLIAMSON:

"Second—Code Revision: We recommend a revision of the criminal and civil codes, along the general lines heretofore pointed out by this Association, and by various other agencies which have had this matter under discussion. The reasons for this recommendation are, also, too apparent to need reiteration. Since nothing can be done in this matter, however, until the Legislature sees fit to act, we again recommend that the Association appoint a committee for the purpose of presenting to the next General Assembly, the bills heretofore drawn by committee of the Association and approved by it, notably at the St. Louis meeting on September 26th, 27th and 28th, 1916. At that meeting eight bills, after protracted debate, met with the unanimous endorsement of the Association and should again be pressed upon the attention of the General Assembly. Many members of this Association and some members of this committee, favor the plan of investing the Supreme Court with the power of regulating civil and criminal procedure by rules of court. In the judgment of this committee, one or the other method of obtaining relief should be persistently urged by this Association, until a thorough revision of the codes of practice has been accomplished."

Mr. Chairman, I move the adoption of this portion of this report.

THE PRESIDENT: Mr. Williamson, allow me to suggest your resolution says the Association shall appoint them; I think it would be much better if you say by the President.

MR. WILLIAMSON: The President, of course.

THE PRESIDENT: Therefore, gentlemen, the resolution as it now stands is the President shall appoint them again, as we have heretofore done, and probably continue to do until we get it through, to take charge of the recommendation by this resolution. Are you ready for the question?

Motion carried.

MR. WILLIAMSON: The next portion of the committee's report deals also with the matter upon which this Association unanimously acted at St. Louis last year.

"Judicial Primaries. At the 1916 session of this Association in St. Louis, this body, without a single dissenting vote, adopted a recommendation to the effect that the nomination of the candidates for the offices of Judges of the Supreme Court, Courts of Appeals, Circuit Courts, Criminal Courts and Courts of Common Pleas, by the primary system should be abolished. The reasons stated in the report at that time are appended to this report. Your

committee again recommends that some other method than the primary method of nominating judges of the courts above named should be adopted, and further recommends that the President of this Association should, at this meeting, appoint a committee to draft a bill for the repeal of the primary election law, in so far as it is applicable to the judges of the courts aforesaid, and for the substitution of some other method. This bill should be presented to the next meeting of this Association for its consideration, and if approved by the Association, should then be submitted to the next General Assembly for enactment into law."

I move the adoption of the resolution, Mr. Chairman.

VOICE: Second the motion.

THE PRESIDENT: Gentlemen, before you second the motion, I want to lodge an objection against that. That a committee be appointed by the incoming President, and not this one.

MR. WILLIAMSON: It doesn't say by this President. It says "the President".

THE PRESIDENT: Oh, very well, if that is what it means. All in favor signify by saying "Aye".

Motion carried.

MR. WILLIAMSON: Fourth, and last, Mr. Chairman:

"Your committee calls attention to the report of the Missouri Statute Revision Commission, under date of January 7th, 1915, to the Forty-eighth General Assembly of the State of Missouri, at which time that commission called the attention of the General Assembly to the fact that there are a great many obsolete, duplicate, complex, unconstitutional and uncertain statutes still carried upon our statute books. Some of these statutes are flagrantly absurd, viz: The section requiring the owner of six swine, if they are fatally sick, to put up a flag indicating that fact. The statute does not provide how the owner shall determine whether or not the sick swine are fatally sick. Numerous other absurdities might be mentioned. The recommendations of the Commission above mentioned are so numerous as to make it impracticable to embody them in this report, but we concur in the recommendations of that Commission that the statutes mentioned by them should be weeded out of the statute books."

Move the adoption of this resolution.

VOICE: Second the motion.

Motion carried.

MR. WILLIAMSON: Mr. President, on yesterday the re-

port read by Mr. Hudson from a very important committee, contained a number of recommendations which were passed on the understanding that those matters would be taken up during this day. I want to call the matter to the attention of the Chair and suggest, not move the direction of the Chair, but suggest the advisability of taking that matter up now because it is apparent the other business is more a routine matter.

THE PRESIDENT: There is no objection whatever to doing it. I only did this because it was in the order of the regular program. If it is preferred to discuss other questions, we will pass that and take up whatever may arise from that report. There is now before the house——

JUDGE HARRIS (interrupting): I suggest as many of these people are in consultation right now to select the members of this General Council; might just as well let them have it, and then have order. You will save time to finish that consultation right now.

Thereupon the Secretary called the roll of the Judicial Circuit, and the following were named to continue as the present incumbents, or their successors:

1. F. H. McCULLOUGH.	2 JOHN T. GOSS.
3. PLATTE HUBBLE.	4. I. R. WILLIAMS (passed).
5. J. H. HULL (passed).	6. VINTON PIKE.
7. NEWLAN CONKLING.	8. A. A. O'HALLARON.
9. M. J. LILLY.	10. MADISON C. SCHOFIELD.
11. W. B. M. COOK.	E. L. ALFORD, Perry, Mo., succeeding.
12. ROY W. RUCKER.	13. A. E. L. GARDNER (passed).
14. A. T. DUMM.	15. JOSHUA BARBEE. VIRGIL V. HUGG, Marshall, succeeding.
16. JOHN I. WILLIAMSON.	17. A. A. WHITSETT.
W. O. THOMAS, Kansas City, succeeding.	18. HERMAN PUFAHL (passed).
19. ROBERT LAMAR (passed).	20. W. H. D. GREEN (passed).
21. J. B. DANIEL (passed).	22. A. T. WELBORN (passed).

23. J. B. TODD (passed).

24. LESLIE D. RICE,

25. FRANK L. FORLOW.

HON. CHAS. HENSON, Mt. Vernon, succeeding.

26. HARRY W. TIMMONDS (passed).

27. BEN S. MARBURY (passed).

28. A. P. STEWART.

29. P. A. PARKS.

W. C. RUSSELL, Charleston, succeeding.

30. R. S. ROBERTSON, Sedalia.
HENRY LAMM, Sedalia, succeeding.

31. J. WILLIAM COOK (passed).
32. JAMES BOOTH (passed).

33. L. M. HENSON.

34. M. O. HUDSON, Columbia.

35. J. D. HOSTETTER, Bowling Green

J. P. McBAINE, Columbia, succeeding.

JOHN H. HALEY, Bowling Green, succeeding.

36. F. S. HUDSON, Chillicothe.

37. THEO. L. MONTGOMERY (passed).

38. H. C. RILEY, JR., New Madrid.

R. T. RAILEY, St. Louis County.

ROBT. L. WARD, Caruthersville, succeeding.

THE PRESIDENT: We will now take up under the head of "Discussion" ány matter that is to be brought before the Association.

Judge Harris, the questions suggested now by the report of Manley O. Hudson, and the recommendations made before the body.

MR. WILLIAMSON: Mr. Chairman, unless the matter be overlooked, the matter of nominating vice-presidents is also a matter to be taken up at this session, one from each judicial district.

THE PRESIDENT: Gentlemen, there is another matter wants attention; that is the nominating of a vice-president from each of the respective judicial circuits. The practice heretofore has been for the members to hand in to the Secretary the parties they select from their circuits. Therefore, I will ask you each from your circuits to hand in to the Secretary the names recommended from your circuits, and do it before you leave, so it may be printed in the book.

MR. KRAUTHOFF: Mr. President, is Mr. Hudson present?

THE PRPSIDENT: Mr. Hudson, I understand, was obliged to go home.

MR. KRAUTHOFF: I would suggest Judge Sturgis be requested to read the resolution.

MR. PRESIDENT: Yes, sir. Judge Sturgis of the Springfield Court of Appeals.

JUDGE STURGIS: In the absence of Mr. Hudson, I will take up the recommendations that pertain to the last report, of which there are four of them, and I will read the first one.

> **"The committee recommends that the Missouri Bar Association give its attention to the subject of organization, and that a special committee be appointed at this session to consider possible changes in the structure of its committees, which will make their work more effective and enable the Association to pursue more definite and continuous policies."**

As was explained, that means that the committees that are appointed from year to year go out at the end, and new committees come in, and that they are not familiar with the work that has been done before, or the status of the work that has once been undertaken, and, therefore, the work is not effective. That is, to make the committees more continuous in order that there may be more persistent and prolonged effort in securing the measures of reform that we have undertaken. You can see the importance of that, because it generally takes about six Legislatures in order to get a measure properly before them for consideration, and some means might be adopted to that end. No specific means adopted, but it is worthy of our consideration, and I, in order to get it before the body, move the adoption of this resolution.

MR. WILLIAMSON: Judge, will you kindly read that resolution again, the latter part of it, particularly?

JUDGE STURGIS: I will read it again:

> **"The committee recommends the Missouri Bar Association give its attention to the subject of its own organization, and that a special committee be appointed at this session to consider possible changes in the structure of its committees which will make their work more effective and enable the Association to pursue more definite and continuous policies."**

JUDGE HARRIS: The motion is made to adopt that resolu-

tion as read. I move to amend it by inserting in the place of the words, "committee be appointed at this session", that the "incoming President be authorized to appoint a committee".

MR. WILLIAMSON: Second the amendment.

JUDGE STURGIS: I accept the amendment.

MR. JAMES C. JONES: I would like to offer the further suggestion in order that that point may be made clear. "The committee recommends that the Missouri Bar Association give its attention to the subject of its own organization and that a special committee be appointed at this session to consider possible changes in the structure of its committees." I move that that last be changed so that it shall read, "and that a special committee be appointed at this session"—that is, as amended by the chairman—"to consider possible changes in its organic structure and the structure of its committees," so that they may take up the whole subject.

THE PRESIDENT: That covers the question you were discussing a while ago. Is there any objection to that, gentlemen? If not, we will consider that the recommendation now reported there, as amended and suggested by Mr. Jones. Is there any further discussion? All those in favor of the resolution signify by saying "aye."

Motion carried.

JUDGE STURGIS:

> **"Second. The committee recommends that the Association again approve the general principle of the legislature's turning over to the Bar and to the judiciary complete control of judicial procedure; that a special committee be appointed to draft a statute which would have the effect of leaving all details of court procedure to rules of court formulated by the Supreme Court, with the assistance of the Bar, and that copies of such a draft be sent to each member of the Association for consideration and debate before the next session of the Association, in order that action may be sought from the next General Assembly."**

This is a matter that has been discussed time and time again, and in order to get it before the Association, I move its adoption.

THE PRESIDENT: Judge Sturgis, does it use the expression, "turn over to the bar and the court"?

JUDGE STURGIS: "Turning over to the bar and judiciary complete control of judicial procedure."

MR. KRAUTHOFF: Mr. President, I move the words, "to the bar," be stricken out, because, of course, we understand that if the judiciary does have power, it will listen to the suggestions of the Bar, but to go to the Legislature with a concrete proposition that the question of procedure should be turned over to the Bar might lead to confusion.

THE PRESIDENT: It won't get very far.

MR. WILLIAMSON: Before the amendment is seconded, I have an additional substitution, with Mr. Krauthoff's leave, the words, "to the Supreme Court," instead of "to the judiciary."

MR. KRAUTHOFF: That is all right.

THE PRESIDENT: I suppose the language in the report was merely general and was to be——

JUDGE HARRIS (interrupting): Mr. Chairman, as a substitute for the amendment motion, I move you, sir, the consideration of that resolution be continued to the next annual meeting of this Association.

MR. JAMES HULL: Second the motion.

MR. LAMAR: Mr. President, I don't think it ought to be continued. I think this Association ought to go on record as favoring that proposition. Now there have been two or three committees worked and met, and this Bar Association spent its whole session a year ago, practically, thrashing out matters on which we all agree, and we got no results, and it might be continued almost indefinitely, and the results would either be nothing or be unsatisfactory. Now I recall in your opening statement to this body, you referred to one bill—I think only one of those bills the Legislature passed—shortening this. They say that publication would be sufficient in all suits under that article, without saying whether it would apply to general lawsuits where you had to get service by publication or not, because that article had reference to a line of titles, and we will be confronted with that situation just as long as we undertake to get the Legislature down there to tinker with methods of procedure, without any reflection on the Legislature. In the first place, they are not qualified to do it, and in the second place, they have not got time to do it. Now the Supreme Court ought to have authority to do it, and they can do it, and make a point, where it is flexible, they

can modify and arrange it as the exigencies of the situation may require and can call in the Bar to help them, and I am sure there will be nothing radical done.

THE PRESIDENT: And take plenty of time.

MR. LAMAR: And take plenty of time, and back of it all I have this vision, I hope to see it. It is along the line of talk of my brother, Krauthoff. Now doubtless, if it hadn't been for the present situation, before this time we would have had a Federal law giving to the Supreme Court of the United States the power to make rules regulating the practice in actions of law just as they have in equity cases, and I hope to see the time come when that will be the model of the different States, so far as the fundamentals of practice are concerned, so that a lawyer in Missouri can go to Oklahoma or Kansas, or anywhere else, and, as far as the fundamentals are concerned, that the requirements of the statement of a cause of action and the grounds of demurrer, and things of that sort, that they will be the same everywhere. I hope to see that bill or the rules written that the Supreme Court of the United States will work out the matter of a model for all these other States, as, for instance, they are working on an uniform insurance law, I understand, in the District of Columbia, which it is hoped to make a model for the various States on insurance law, and so on. I am in favor of this body taking action now and committing ourselves to that proposition, because, to my mind, it is the sound way of making whatever amendment should be made to our court procedure, and, in addition to that, I think it is the only way we will get any practical, tangible results.

JUDGE HARRIS: Mr. Chairman—just a minute, gentlemen. I am not going to take much of your time; I am not going to make a long-winded speech.

Now, here we are, in the concluding hours, now a quarter to 4 on the third day, only a handful of members here, to discuss this proposition, the question of the reformation of our procedure. Now, the other recommendations in this report, will necessarily from their very nature, even if they are adopted, have to go over until next year after the committee reports, when we can consider them on their merits. It is not fair to this proposition or those who favor it to try

to put it through in the concluding hours of the Association, when there is only a handful of people here. It wouldn't be fair if those who oppose it thought we had a majority here and kill it now, to try to put it through at this time, and it is too important a matter for this Association to go on record upon with only a handful of men here to discuss it or consider it.

Now, this matter has been discussed before the Association indirectly a time or two before. There are some members of the Association who strongly favor this proposition. There are others who do not favor it. It ought not to be decided, and the Association ought not to go on final record when there is only a handful here to consider it.

Now, Brother Lamar, over there, has suggested that the bills proposed by this Association and presented to the members of the last Legislature were not adopted. Well I know, and I know why they weren't adopted. It is simply because of a lack of indifference to matters presented to the Legislature; especially was it due to the fact that there were members of this Association who were present in St. Louis last year and here the year before when these very matters were adopted, who came before the Legislature and secretly and openly opposed the passage of these bills. Now, we will never get anything before the Legislature, never get this Legislature to adopt anything until we can get behind that measure unitedly, and you can not get behind any measure unitedly when there are only a couple of dozen people here to consider it and adopt it or reject it.

Now, I know what I am talking about, when I say I know why the Legislature didn't pass these bills. I do believe the Legislature will pass any bill that this Association will get unitedly behind and go before the Legislature, as does, for instance, the Medical Association in the State behind their bills. There is no question about it. There are members of the Legislature here who will vouch for that statement.

VOICE: You expect to get the unanimous support of this Association for that measure?

JUDGE HARRIS: I am discussing that question now, sir. I am reiterating, Do you expect to get the unanimous support of this Association to the proposed amendment?

VOICE: May I ask a question? I am serious. The question is: You do not expect to get the unanimous consideration of it here? However, I suppose this body as a whole is back of this suggestion.

JUDGE HARRIS: This suggestion as proposed here now?

VOICE: Yes.

JUDGE HARRIS: No, but I do say it ought to be considered before a representative portion of this Association when it is finally adopted, if it is adopted, so that no one can consistently say, no honorable member of this Association, can say they passed that when everybody had gone home, and I don't feel in honor bound to support it. I do say it should be considered by a representative number of this Association, and if it received their support, that I will support it, and that is more than some of you did with reference to matters that were approved by this Association last year. Now, of course, I might say this——

MR. ALFORD (interrupting): What is your position, now, Judge, on this resolution?

JUDGE HARRIS: On this resolution? I am right now, and always have been, and I am right now, against it, and I can tell you why I am against it.

MR. ALFORD: You mean you don't want this body to adopt the resolution?

JUDGE HARRIS: You bet I don't; you bet I don't.

MR. ALFORD: Well, I want to know where you are at.

JUDGE HARRIS: You bet I don't. I can tell you why in a moment, why I don't. I can tell you why I don't.

Now, here is a report from Judge Walker of the Supreme Court on another proposition. Now, this simply means, gentlemen, that this resolution carries now, that the Supreme Court will try to change upon the statute books the provision that has been advocated several times before this body that before a man shall be entitled to an appeal he must first make an *ex parte* presentation of his matter to the Supreme Court, or to some member of it in vacation, and let that member of the Supreme Court, or its whole body, for that matter, upon an *ex parte* presentation say whether or not he has the right of appeal, and I am opposed to that system. I am opposed to that system.

Now, the Supreme Court—that is, Judge Walker says, they are all in favor of that proposition. Now, if a majority of the lawyers of this State on the first or second day of the Association, when there is a respectable number of members of the Association here, say they want that and they will adopt it and instruct their Legislative Committee to advocate the passage of such a bill before the Legislature, you will find Harris in line for it, and doing all he can before the Legislature to try to get it passed.

MR. DUNN: Judge, may I make a suggestion there. That suggestion is really *certiorari*. That is what it is. Not a right of course, but discretionary.

JUDGE HARRIS: I say, gentlemen, it is too important a proposition to decide here, with only two or three dozen people present, in the closing hours of our meeting, an important matter of this kind that strikes right at the fundamental change of our procedure in this State—for a handful of men here, in the closing hours of the Association to try to go before the Bar and say: Missouri lawyers approve this measure. It isn't right; it isn't right, and you know it isn't right.

I may have counted noses around here, and we can vote it down, but I don't think it is right. I want this matter considered by the Bar of this State, because it is too important a matter generally to throw over in this manner. I believe if some of these other suggestions are carried out, I believe we will have a very much larger representation next year in St. Louis, if we should happen to meet there, and if we do, the consideration of a matter of this kind ought to be put at the most important part of the Association, the middle of the first or the second day, when the largest attendance is present. You will never get such a bill as this proposed past the Legislature, never get any other bill, unless you get behind them unanimously, gentlemen, and unitedly.

Now, we adopted eight bills at the meeting of the Association last year, and a legislative committee was appointed to go and present them to the Legislature. The bills were put in shape, and after a long time the proper legislative committees, to which they were referred, gave us a hearing. Two or three of us got over there, went over there repeatedly, and presented these matters to the Legislature. They were gone

over carefully with the committees, and such suggestions as to amendments as the members of the Legislature saw fit to make were incorporated without discussion, because the position was taken that any proposed legislation that wouldn't stand investigation, wouldn't stand discussion, wouldn't stand proper and just criticism, shouldn't pass. The bills were gotten in shape. Don't you remember the discussion we had last year over them? We whipped them into shape so far as this Association is concerned. As a matter of fact, parts of the bills were submitted this year because we didn't have time. Practically this very proposition came up last year in the closing hours of the Association, just as it is coming up now, and a motion was passed that it be considered this year. Now, this year has come and the Association practically ended, and now no time is set or fixed or given for the discussion of these propositions, which involves a discussion of this very proposition which is now before this Association. I say, gentlemen, it would be a discredit to us as an organization if you try to ram down the throats of this Association, the Bar of the State, a proposition of this importance, passed in the closing hours of a meeting, like this is attempted to be done.

For that reason, I don't want to kill discussion on it, but I simply want to let it come before the Association at a time when we have got a representative number of our members here.

MR. CHAS. M. HAY (St. Louis): Mr. Chairman—I would like to make this suggestion. I think I realize, perhaps, as few gentlemen here do, the virility of the opposition here, because I first practiced law for five years with the gentleman, and practiced under him—decidedly under him—when he was on the bench for a few years later, and I know the effort that Judge Harris has in mind, and to the proposition of embodying the language in the bills that he has referred to, and which he is very much in earnest about, and I know, also, as a member of the Legislature, the intense interest he took and has taken since in these matters. I, therefore, think the two propositions are all right, but the last sections, if I may so denominate them, should be presented to the Association, first in printed form, which should not be lengthy, and then

be open to a discussion of them at the next session of our Association at St. Louis.

I would, therefore, move that this—as a substitute for the motion that has been made here—that the further discussion of this matter be deferred until the next Association meeting and that the two propositions, in printed form, be placed before the members of the Association, in advance of the meeting, and that a day be set apart for the discussion of them at the next meeting of the Association in the City of St. Louis. I think we ought to go into this matter very thoroughly and very fully.

VOICE: Second the motion.

MR. WILLIAMSON: Mr. Hay, will you make that more explicit by saying the "second day of the next meeting be devoted to that"?

MR. HAY: Yes, I would like to accept that suggestion.

THE PRESIDENT: Mr. Hay, let me say there is no provision in the by-laws or Constitution to limit it to two days, three days, four, or five days, or any number of days, as far as that goes.

MR. HAY: I will accept the suggestion of Mr. Williamson that the second day of the meeting of this Association be set aside for the consideration and debate of this matter.

JUDGE HARRIS: I accept that amendment.

MR. HAY: Mr. Chairman—I would like to make this further suggestion, that the incoming President be empowered to designate committees, *pro* and *con,* on this proposition to see the matter is presented to this next session.

THE PRESIDENT: Yes, it would necessarily follow, Mr. Hay, as he is the proper officer.

JUDGE STURGIS (continuing): The third recommendation:

> **"The committee recommends that the Association's attention be given to the unification of our judicial system; and that a special committee be appointed with a continuous commission to study our present judicial organization and to propose measures for unifying and improving it."**

If you have listened to the reading of this report before, you will find it is stated the unification of the courts can only be brought about by constitutional amendment or by a new

Constitution. As the courts are now constituted, the Constitution itself couldn't be changed by the Legislature. The purpose of Mr. Hudson in this, as I have learned by talking with him, was that this matter be presented to the Bar Association in order it might be kept before the Bar Association and the people so that if a constitutional convention was called, that a system of unification of courts, that is, to have a single Court of Appeals or a single Supreme Court, with various divisions or branches, and all in one Supreme Court, that that system be advocated in any new Constitution that may be formed, or possibly an amendment to the present Constitution. That could only receive the approval of the Bar Association, and, of course, could not be recommended to the Legislature. And this calls for the appointment of a committee to study that question and formulate and present to the Bar Association a system of uniform—or unity, rather, not uniform, but unity in the court of last resort.

MR. WILLIAMSON: I second the motion.

THE PRESIDENT: Anything to be said upon the motion? If not, we will put the question. All in favor of this motion, signify by saying "Aye".

Motion carried.

JUDGE STURGIS: The last recommendation of the committee:

> **"The committee recommends that the Association appoint a special committee to consider the general subject of judicial statistics and to devise plans for assembling such statistics as might aid the bar and public to a more intelligent comprehension of the work of our judiciary."**

Of course, I couldn't file an objection to this because I was a member of one of the courts myself. I have no objection whatever to have judicial statistics, if they include the amount of work done by each of the judges, even down to the number of hours that we spend in our office. I am perfectly willing.

MR. JONES: Suppose that be referred until the second day of the next annual session? I move that it be so referred.

VOICE: Second the motion.

MR. WILLIAMSON: Mr. Chairman, that motion is for discussion? I trust that it will not prevail, for this reason: In

the first place, it is not, in my judgment, a matter of very great importance; in the second place, it simply calls for the appointing of a committee to collect data and submit to the Association for the information of the Association and the people. Those of us who know what the courts do, already have the information. To anybody who doesn't know what courts do, the courts have no objection that they should have the information, and I wouldn't like to see the Bar Association put itself in the attitude of stifling the dissemination of information regarding the courts. It would put the courts in a false attitude.

MR. KRAUTHOFF: Mr. President, the objection I have to this last resolution is that it calls for the appointment of a committee to assemble statistics, when in the third resolution we have already provided for a committee to study the unification of courts. Now, no one can intelligently study the unification of courts without having the statistics. You can not figure out a plan of courts without knowing how many cases there are, and what is the state of the docket, and what the general problem is to be solved. I, therefore, move, as a substitute, that this fourth resolution of the committee with respect to statistics, be referred to the committee to be appointed under the third resolution, and that committee have power to assemble these statistics, if needed.

JUDGE STURGIS: Mr. Chairman, the reading of this recommendation is not that a committee will be appointed by this Association or to engage in collecting the statistics of the court, but that the committee will study and plan and recommend a plan by which these statistics may be collected and made public—a permanent plan.

MR. KRAUTHOFF: Well, then, I withdraw my resolution—or my motion. I didn't understand it.

JUDGE STURGIS: A permanent plan of at all times giving statistics.

THE PRESIDENT: Mr. Jones, what was your motion, now?

MR. JONES: I will withdraw it.

THE PRESIDENT: Has this been seconded? It was seconded?

Motion carried.

Judge Sturgis, is there anything further along that line?

JUDGE STURGIS: No, sir; this is all.

THE PRESIDENT: In this connection, gentlemen, I want to call your attention to the fact that there has been submitted to me an obituary upon Seneca N. Taylor, which has been adopted by one of the legislative committees and referred to this body, and I have advised them that it would be accepted and printed in the obituary column of our next issue.

MR. KRAUTHOFF: Mr. President, I had the privilege of serving in the National Conference of Uniform State Laws with Mr. Seneca Taylor of St. Louis. He was highly esteemed in that body, and was in all bodies to which he belonged, and in that body a memorial was adopted with respect to Mr. Taylor.

I move, Mr. President, that memorial be received by this body and be placed among the archives of our Association, and be printed with the record of this convention.

VOICE: Second the motion.

Motion carried.

MEMORIAL TO HONORABLE SENECA N. TAYLOR OF ST. LOUIS, MISSOURI.

Having been designated by our President to present a tribute of respect to the memory of our distinguished colleague, Judge Seneca N. Taylor, who died on August 22, 1915, I beg to present the following:

SENECA NEWBURY TAYLOR

was born in Oakland County, Michigan, in the year 1836, spending his boyhood days on the farm, interrupted only by occasional terms in the District School; at the age of eighteen, he entered the Dixon Academy at Romeo, Michigan, where after spending about three years, he was enrolled as the first pupil in the first Agricultural School of Michigan, from which he went to Adrian College, remaining there long enough to secure his degree of Bachelor of Science, and then for a few years he followed the profession which so many who subsequently become lawyers begin life, that of school teaching.

In 1860, at Mason, Michigan, he began the study of law in a lawyer's office and was admitted to the bar the same year and then immediately entered the University of Michigan, receiving in 1861 his degree of L. L. B.

For four years he practiced law at Niles, Michigan, part of the time holding the office of Circuit Court Commissioner. He was then nominated for judge of the court but was defeated, and then determined never again to seek political preferment.

It was from this candidacy and his eminence at the bar that he received by courtesy the title of judge by which he was universally known.

In 1865 he settled in St. Louis, remaining there until his death, and from the first he was recognized as a lawyer to be relied on as an advocate and to be reckoned with as an adversary.

For over fifty years he conscientiously and faithfully followed the path of his profession in the City of St. Louis, and in the end he earned the station of one of the Nestors of the bar; his success at the bar was won at the cost of most thorough and searching preparation; his briefs, both in the courts of the first instance and on appeal, being models of comprehensiveness and showing the most minute investigation and a study of the facts and the law.

He preferred to present his side of the case alone and only under the most exceptional circumstances would he consent to associate himself with another lawyer.

Judge Taylor was a member of the National Divorce Congress of 1906 and very soon thereafter was appointed one of the Commissioners on Uniform State Laws from Missouri, and attended every conference from the time of his appointment, ten in number, and took an active part in each one.

He was for several years a member of the Executive Committee, Acting Chairman of the Incorporation Committee, Chairman of the Committee on the Appointment of New Commissioners and held other important committee assignments.

His last appointment was as Chairman of the Nominating Committee at the Conference of 1915, few of the sessions of which he was able to attend, and though we heard he was ill before we adjourned little did we expect that in a few days thereafter his voice would be silenced forever and we would see our friend no more on this earth.

In the death of Judge Taylor, each of us may well feel that he has lost a personal friend, for to each and every one of us he was more than our colleague, he was our brother.

The closest personal relations existed between Judge Taylor and every member of the conference, young as well as old, and never did a cross or harsh word escape his lips even in the excitement of the many debates in which he took part during the meetings of the conference.

In the loss of Judge Taylor this conference and the cause of uniformity of legislation has lost an active, efficient, conscientious and industrious worker; the bar of his state and of the United States has lost one of its leaders; the people of St. Louis and Missouri have lost a citizen ever foremost in patriotic, historical and philantrophic work, and his family a devoted husband and father, and to them we extend our sincere sympathy in their great affliction.

(Signed) W. O. HART.

A true copy.
Attest:
(Signed) GEORGE B. YOUNG, Secretary.

THE PRESIDENT: Now, gentlemen, there is yet to be heard the report of the Secretary, and inasmuch as Mr. Daniels is unfortunately unable to be here, the Assistant Secretary, of

course, will be unable to make us a report, I suppose, of such a character as is required, and I suppose that will have to be deferred.

The next matter is the report of the Treasurer. Mr. Lyons has been unfortunately detained this afternoon and he is unable to be here. His report, however, will be filed and submitted to the Executive Committee. If there is no objection, it will be so ordered.

I want to say to you, gentlemen, the treasury is in excellent condition. All expenses have been paid to date and there is some twenty-seven hundred dollars in cash on hand. The large increase in membership has brought about this result, notwithstanding the extravagant administration you have had. We expect that the expense of this meeting will be paid and a splendid balance be turned over to the tender mercies of Jim Jones.

JUDGE HARRIS: Mr. Chairman, if it is not out of order at this time, I move you, sir, that the thanks of this Association be tendered to the Kansas City Bar Association, to the members of the profession generally in Kansas City, and to our officers for the splendid entertainment that they have given us during our stay here, and for their bounteous and unfailing hospitality toward us. (Loud applause.)

MR. WILLIAMSON: And to the management of the Baltimore Hotel for its accommodations here.

JUDGE HARRIS: Yes, and to the management of the Baltimore Hotel for the many courtesies extended by it.

THE PRESIDENT: Inasmuch as that includes myself, and I have no sense of embarrassment whatever, I will put the motion myself. All in favor of the motion will signify it by saying "Aye".

Motion carried.

The Chairman then announced the banquet at the Baltimore Hotel at 7:30 p. m., and thereupon, on motion, the thirty-fifth annual meeting of the Missouri Bar Association adjourned *sine die*.

TRANSCRIPT OF ADDRESSES AT THE THIRTY-FIFTH ANNUAL BANQUET OF THE MISSOURI BAR ASSOCIATION.

Kansas City, Missouri, September 29, 1917.
Baltimore Hotel.

JAMES H. HARKLESS, TOASTMASTER.

THE TOASTMASTER: Gentlemen of the Bar, I ask you to arise while we propose a toast; everybody arise.

Here is to the President of the United States, to the Star Spangled Banner, the Army and the Navy, to all of which we pledge our loyalty.

Gentlemen of the Association, if you will give attention, our new President of the Association has an act to put on; James C. Jones, your new President, of St. Louis. (Applause.)

PRESIDENT JONES: I want you to distinctly understand, members of the Missouri Bar Association, that I am here tonight to play a distinct and set part, and that I shall confine myself to exactly that, because the real orators this evening, some of whom must depart on early trains, will not have time to perform their parts if I go outside of the line assigned to me.

I would like to have Mr. Judson Sanderson step forward immediately, if he will.

Members of the Missouri Bar Association, permit me to present to you, not to introduce, Mr. Sanderson. Some men are born great, some men achieve greatness, and some men pitch right into greatness. (Applause.) Our friend who stands before you now pitched himself into greatness yesterday when we had the horseshoe pitching contest. There appeared in the lists many pitchers, but the others were pitchers that went to the well too often and all fell before the mighty prowess of our friend Sanderson, and as a reward for his great achievement it is my duty as the representative of this Association to present to him this casket. I call your attention to the fact that beauteous as it is on the outside, the real solid stuff is within, and that which is without is but

mere adornment; that that which is within has helped great nations to conquer territory, has helped to bear kings and to carry heroes through battle lines; indeed, it has helped to open up and conquer great nations, and is universally regarded as the harbinger of good luck for the future. So, it is my pleasure not merely to present to Mr. Sanderson this case which you see without, but all that is contained therein, and willingly and gladly I present to him these tokens of our appreciation of him as a horseshoe pitcher, and may he wear them for the adornment of his person at the next meeting of our Association. (Hereupon an ornamental leather case was presented, containing a half dozen mule shoes.) (Laughter.)

All of this jocosely said, sir, nevertheless bears witness to these, our best wishes to you through your life, and response here and now you must forthwith make.

(Cries of "Speech".)

MR. SANDERSON: Fellow members of the Missouri Bar Association—I have had a lot of things to do; one thing was to talk my voice into a normal condition after three days in Kansas City. I delight in having the horseshoe placed upon me and I believe that achievement comes in life peculiarly to some.

I want to tell the real truth about this. I have been wanting to break into the big league for a long time. Judge Harris is here, and he tipped it off to me while the court was going on that they were going to have a horseshoe pitching contest, and I made him adjourn court in the middle of a criminal trial, and I went out and beat him. These gentlemen call me a ringer, and I am.

This is the first time I have won, and I want to say to you that if I were to suggest one thing that this horseshoe brings to me as a message, it would be this, that the American citizens at the present time will regard that each of you carry a horseshoe of luck connected with service toward the American flag. My friends, I thank you. (Applause.)

TOASTMASTER HARKLESS: Gentlemen of the Bar, we have finished the business which we have in hand, we have been treated to our dinners and our drinks, and now we have something on hand of a serious cast.

The first toast upon the list is entitled "As You Like It",

to be responded to by Louis C. Boyle. (Applause.) How often we find in life that on the spur of the moment we make many mistakes, which, upon later reflection, we find out not to have been made. I refer to the mistake I have made in selecting Boyle. Our friend Boyle, as you know, hails from the State of Kansas—poor Kansas, she has been responsible for many things. And this is not the least of her responsibilities.

Boyle at one time lived in Bourbon County, Kansas—Fort Scott—and he came into prominence in Kansas about the time that the Populist Party came into prominence. They had a Populist Party in Kansas, and the Populists of Bourbon County assembled for the purpose of nominating its county officers, and there being upon the list the office of prosecuting attorney, they approached it with much diffidence and were nonplussed to know what they should do. One of the cardinal principles of the Populist Party was, and always has been, that they would not support any lawyer for any position of any kind. (Laughter.) That was a cardinal principle of the Populist Party. And when they met in convention in Fort Scott they began to cast around to find a man that would fill the bill, and, after making a complete search and investigation in order to find a man who knew nothing at all about the law, they nominated Boyle. (Laughter.) He held the office for two years, and finally the Populist Party met in state convention and were confronted with the proposition of the selection of an attorney-general, and, still true to its cardinal principles, it began to look around for the proper man to fill that position, and having in mind that Boyle had served two years as prosecuting attorney of Bourbon County and never had been even yet suspected of being a lawyer, they nominated him for attorney-general.

He afterwards came down and located in Kansas City, and you gentlemen members of the Bar of Kansas City know that when we became thoroughly familiar with Boyle and his knowledge of the law we said the Pops were right. It is hard to fool a Pop. I happened to be down in Kansas some time after this, at the City of Fort Scott, where Boyle had lived, down at the station waiting for a train. I was sitting on the outside of the station, it being in the good old summertime;

I was seated on a bench on the outside, and presently there strolled along an old gentleman about 125 years of age, with long whiskers and a G. A. R. button on him, and he sat down beside me. Nothing was said for a few minutes, and then directly he turned to me and said: "Partner, where are you from?" "I am from Kansas City, sir." "Uhum," he says; "do you happen to know General Bile?" He was an Irishman, and he called him Bile, and you will understand in a few minutes why he called him Bile. I said, "Yes, I know General Boyle; he came from the State of Kansas over to our State." He turned around and looked at me a moment, and then looked away with a vacant stare, and said: "Y-e-s," and I noticed a kind of peculiar accent to that "yes", which attracted my attention. Finally I said to him: "General Boyle is a most splendid citizen, and we have high regard for him in Kansas City." "Y-e-s," another one of those peculiar stares, and I could not exactly understand him, and I thought I would come at him again, and I said: "General Boyle is a very prominent man in our city." "Y-e-s." I turned around to him and I said: "My friend, I don't exactly understand this thing, the accent you seem to give to that word 'yes.'" He turned to me and said: "Partner, I want to tell you that I am an old G. A. R., and was a Kansas redleg, and I remember the time when this Quantrell gang came over from Missouri and killed our horses and destroyed our property, and we have had a hatred for them ever since." I said: "Yes, I understand that perfectly well." "But," he says, "it is all right, now." I said, "Why?" He said: "We have forgiven them; it is all right, now; we have had our revenge." "Well," I said, "how is that?" And he says: "We are feeling perfectly comfortable with you Missourians, since we have unloaded Bile on you." He said: "Why, when Bile left here we had a great celebration after we were sure that he was going; we had a great celebration," and he stroked his whiskers and he continued: "Yes, they walked in forty miles to attend this celebration." Now, I have assigned to him the subject, "As You Like It" because there is nothing in it, and he is the man to talk about it. The subject is "general", and so is he, and when he gets up, I want you to look at the beautiful, serene countenance of Boyle; when he looks off with

that wisdom smile you would think that he was the northeast corner of creation. My fellow citizens and gentlemen of the Bar, I want to apologize to you for introducing Louis C. Boyle. (Laughter.)

Before proceeding further, and while he is standing up, I want to say that I have taken this opportunity to tell the truth about Boyle because I have in mind that old couplet of the poet:

"The centipede sat on the scorpion's back
And chuckled and chuckled in glee,
And he said, if I don't poison this son-of-a-gun,
I know he will poison me."
(Laughter and Applause.)

GENERAL LOUIS C. BOYLE: Our distinguished guests and members of the State Association—I might ask, is Judge Thomas here?

TOASTMASTER HARKLESS: Yes, Judge Thomas is here.

GENERAL BOYLE: Then I can go forward. Those of you who are from out of town may have thought that this burlesque stunt that has just been pulled off was for your delectation. Do not flatter yourselves. Those of us who have to live with it and have it as our daily rations—— (Laughter and applause.)

Gentlemen of the Bar, I conceive this to be a very auspicious occasion, the time and the hour, the very atmosphere, makes this an occasion of some importance, and I had set about it to prepare a speech, and as is my custom, I had prepared it with care and intended to read it to you. It was a matter that would have been instructive and at the same time useful in this tragic hour in which we live. There were nearly sixty-five pages of it, but I see that my cloth has been cut out and I must abandon this prepared effort of mine and address myself to other things. (Applause.) You may have noticed the folder in which the announcement of our meeting was distributed, wherein the wonderful advantages were set out touching our fair city of Kansas City, the opportunities for capital, its energy, and things of that kind. Now, we, of this good town, do acknowledge that there are cities that have it over us in some things, for instance, our good friend Gardiner Lathrop now lives in a great city, the mayor of which has recently boasted that that city was the fifth in all of the world in pinochle. Now, we are in the fourteen millionth class in that article of modern culture, but in hay, there is where we shine. We are first in hay, and, speaking of hay, this thought occurred to me as I listened to the drivel of your president; why not advertise the fact that notwithstanding his handicap this man has succeeded in Kansas City? Set it out in small type at first, that he came here a

raw, ignorant, country boy with ungodly nerve, and that his library consisted of Kelly's guide to the practice of the law before Justices of the Peace, and I might say to you who are not acquainted with the fact, that it is still his staff and guide. And then go on and announce in small type still that his outstanding achievement before landing here was that he had practiced law before Justice Squintham of Lamar, and that his old friends from Lamar when they meet him, even unto this day, chuckle and say, "The same old Jim." Then in large, bold-face type, say, "As a recommendation of this city's capacity to do things, attention is called to the fact that even he has prospered in this great city of fat opportunity."

You know, speaking of "As you like it", the exiled duke, as I call it, said, in speaking of Touchstone, "Is not this a rare fellow, my Lord? He's as good at anything, and yet a fool." I say, gentlemen, that our thoughts run in similar currents, the words belong to the immortal bard, the application is all your own.

But enough of this, I must hasten to the belly of my argument. The frank, open-handed manner in which the chairman of this meeting has referred to me must receive perforce but passing comment, matters of more consequence doth await. I might say in passing, the truth you spoke, dear Jim, lacked somewhat in gentleness. Those gentle jibes but feebly persuade me what I am.

About that Quantrell story, that is all right, nobody knows it better than Jim himself. We live neighbors out here in the south part of this city and a neighbor of ours, a mutual friend has a big round table in the basement of his home and Jim and I are frequently called there in serious conference. And many a time and oft when I have held but a small pair of deuces, I have, with a cool front of courage looked this man calmly in the eye and made him lay down a full house. (Laughter.) Yes, this Quantrell matter is all right, but I thought I had outlived that Pop Convention record, but 'tis true, and pity 'tis, 'tis true.

And I notice by the way in which a lot of my especial friends around here—and I notice them—received this story with loud and clamorous acclaim, that my progress has been as Touchstone would put it, but so so, and "so so is good, very good, very excellent good, and yet it is not; it is but so so." "Oh, how full of briers is this working day world of ours."

You know, I have often thought and more particularly tonight after hearing this cheap talk, that if Shakespeare had had it before him when he penned that line, he would have used some figure of speech other than briers, because briers have substance; he would have used something like thistledown or tumbleweed or something light and airy in substance and yet annoying.

And now, my friends, to the meat of this matter, because I must hasten on. I have been thrown off my base here a little by the manner of my introduction. Of course, I know you would like to have heard this, but I must "take leave to print" (holding up an extensive manuscript), as a number of our Missourians will want to do when they commence to fix up their fences a few years hence. I was going to say that—let me see, what was I going to say? It is a peculiar situation in which I am placed (speaker interrupted by a voice).

All right, Charlie, it is all right, Judge Thomas is still here. I know what I was going to say; your chairman came to me a few days ago and told me about this convention—not a few days, but

several weeks ago, and he said, "Boyle, now here I have got a very important thing to pull off here, and I want your help." He comes to me perforce naturally in the hour of any important matter, and I said, "Jim, of course, I will help you; what is it, old boy?" He said, "Boyle, you know I have got this convention. I don't know why in God's name they ever elected me as President of the State Bar Association, but they did and I have got to put it over for the honor and sake of old Lamar, and I want you to help me. What can I do? I have prepared my annual address and I want to submit it to you." Naturally, we being neighbors out there, and meeting round about, he has confidence in my judgment, and so he read me this draft of his address; not the one you heard, oh, no, not that one. I have a little girl, Gertrude, ten years old, and I thank the stars that she did not hear the one Jim read to me. For sheer imbecility and absolute want of anything like sense or logic it was the best thing I had ever read. Why, my friends, if the Kansas City Star had gotten hold of that paper that the President of the State Bar Association had originally prepared, we would have been lost indeed, my friends—lost indeed. Well, I took his paper and tossed it in the waste-basket and sat down and dashed off—oh, probably ten or fifteen little nuggets, little jewels of thought, and turned them over to Jim and said, "Jim, take these and tie them together for your annual address." It is a good thing we do not have these events quarterly or semi-annually. I said, "Put them in your own words, or they will find you out." So this man's thought he got from the things I gave him, but the lustre and beauty were lost, for there were some real good things; I gave him that thing about the nation going to take over the state rights, but he got it wrong.

A few days after that he came to me and said, "Boyle, I will tell you what I wanted you to do", saving the ladies' presence, "I want you to make one hell of a speech at our bar banquet", and as that is the kind of a speech at which I am all right, I sat down and prepared my extemporaneous effort and I worked on it several nights in my library and finally got it in what I considered perfect shape. I selected as my subject "Our Country's Flag", a subject which I deemed very appropriate to this hour and this occasion, classic and tragic as it is, and I visioned in my mind that far off day when Betsy Ross, with ennobled and inspired vision, first waved that magic circle of the thirteen immortal stars, thereby giving to the world a sign and an illuminous symbol which was a beacon of hope to the submerged millions the world over. I traced the flag, its evolution and progress over the wind-swept plains. I saw it unfurled on the banks of the calm rivers. I traced the flag from the tropic glades of Florida to the ice-bound lakes of Alaska. Every place I saw the flag it was a symbol of justice and truth and opportunity. And then, through mist and tears, I visioned 3,000 miles of trackless ocean and there beheld the flag in the troubled areas of France, waving defiance to the arrogant War Lord. (Applause.) There is a great deal of that kind of stuff in it; and then I pictured the thought. or unfolded the idea that to this great profession of ours it had been given as a great heritage, as a sacred trust, to keep this flag as a symbol of law because indeed the flag has always typified the fact that it represents a great free people whose institutions are grounded in the basic law, and it is for us to keep that great function pure and undefiled. There was a great deal of stuff of that kind in it as you

can imagine of one of my scholarly attainments, as it were. And I called him over to my house and read this paper to him. If you could have heard it you would have been standing on your chairs, so full it was of brilliance and patriotism. I read it to Jim; I commit very readily these extemporaneous speeches of mine, and turned to Jim and said, "Jim, how do you like it, old boy?" And he said, "Hell, Boyle, I don't understand a thing you have been talking about; I have got Watson and Gardiner Lathrop for all that kind of stuff, and I want you to make a speech up to my standard." I said, "What kind of a speech will I make?" And he said, "I read a poem once by Robert Whitcomb Riley", and he said it was "As you like it." He said there was a girl in it by the name of Rosalie, and she dressed up as a boy and she got off a lot of stuff; she talked about the rain falling on the rich and poor and wetting them all alike, and then she washed her hands and walked in her sleep; Jim thinks the river Avon is down here in the Ozarks. And he said there was a big fellow by the name of Touchstone; Jim would remember Touchstone. I presume the only literary character that stands out in his mind is Touchstone the prototype of Jim. "Motley's the only wear. Let the galled jade wince, our withers are unwrung."

Some of you out-of-town gentlemen who have been continuously here for the last two or three days, may have wondered what was the matter with our President—not our President now, because I could say some things about him, but this is not the time, but I mean the President we have had, because something is the matter with him, everybody must admit that.

Now, I am a great believer in that old Hindoo adage, "See no evil, hear no evil, speak no evil." And therefore it would be unbecoming in me to suggest to this presence that it is the private opinion of a great number of Jim's friends that if the war lasts long enough and Congress does not repeal the law and the stocks on hand are not too large, this man may become normal. I want to say to you and for the advice and counsel of the out-of-town lawers that we relay on him here. Now, Leslie Lyons, more than any one in this room, seems to enjoy that joke. Leslie never in the world was in the environment of the atmosphere I am talking about at all. And I see Al Gossett and Charlie Bush and a lot of these real fellows wearing liquid in their mouths; but "Sweet are the uses of adversity which like the toad, ugly and venomous, yet wears a precious jewel in his head." Jim's jewel is liquid, not always still, and he wears it further down. He that doth the ravens feed and providentially caters to the sparrow, hath in some mysterious way taken this wandering child of disturbance under his sheltering wing. It is said that whom the Lord loveth he chasteneth, and those who have to live with Jim will appreciate that. Now, this party blew into this town—as we are getting down to brass tacks and personalities and this red leg business, I want you who are not personally aware of the fact to know that this party blew in here in 1886; on the very day of the big wind, by the way, Gardiner. Do you remember that tragic day here in 1886 when death and confusion was in the path of the storm? From old Lamar this chap blew in with all of the other trouble we had and under his left arm was that Kelly's Guide and in his right hand was a thin carpet-bag and he dodged into the old Times Building to get out of the storm, he had no other place to go, and at the time he stood sheltered there, the tower fell and killed an honest,

colored laborer standing at his side and Jim was untouched. Thy way, O Lord, passeth all human understanding; why remove a useful negro laborer and leave us Jim?

Well, my friends, you people from out of town will go back to your homes and take up the ordinary affairs of your lives. You will go to your churches, you will go to your offices, you will go to your homes, you will go to your corner saloons or you will go to the corner drug stores where they do not have saloons and with you everything will be normal again, but nothing can ever be normal with us while the President of the Bar Association is a party to our community. But I do want to pluck one thought out of this splendid article of mine, and I am going to do it, notwithstanding the pace that has been set for me.

I thought it might be of interest to you, Mr. President—the new, incoming president, to understand how we despatch business down at our Circuit Court. We have many divisions to our Circuit Court; and this is a matter now of some seriousness, and it is a matter of common sense, I trust. This folderol I have injected here, I don't want you to take my measure exactly from that. For years we have practiced law down here and wasted much of the mornings and forenoons with arguments about motions, demurrers and things of that kind in the various divisions, so we finally lit on the idea of having one division as the assignment division, taking over all of this morning work, settling the pleadings and demurrers and passing on motions for costs and things of that kind. Now Judge Robinson, whom I see here present tonight, and I am glad that he is here because I want to tell it in his presence. Well, when the Judge first was on the bench, he was the most diligent little assignment judge we had; he just sat on the edge of his chair and listened to us fellows and sent for books and he would read the decisions carefully and he would measure up the pleadings according to what the 148th Missouri had said or the 42nd Court of Appeals; he worked like a Trojan. However, he was consistently reversed and nothing happened about it at all. And so, the other day I was down there and he is now assignment judge, and it would be interesting to you to attend his court and witness the operation. Forty or fifty of these lawyers gather down there every morning in this exact science of ours and discuss definiteness and things of that kind. For instance, Cyrus Crane, and if he is not here I am glad of that because what I want to say applies to him. Cyrus was down there and, by the way, Gardiner, this refers to your firm, a firm that now indulges in large things but which has not always been so fortunate and has in times past indulged in smaller business affairs, and some of us pick up the crumbs from it now. But Cyrus was down there attending to a replevin suit over a cow. I know you hardly know what a cow means now, but anyway, Cyrus was saying—Al Gossett had brought this replevin suit. Some one had stolen or enticed the cow from one of his neighbor's farms. Al has thirteen acres down here and is always talking of being a farmer. Al brought this replevin suit and Cyrus was complaining that his client could not tell from Al's pleadings whether or not he had Al's client's cow or not; and this kind of thing is going on every day. Well, I found the other day that the Judge was disposing of business very rapidly, that he was not sitting alert on the edge of his chair any more or running back after his books, but he sat kind of dozing in his chair. Now, it developed that

the Judge, when he gets to the court room, removes his shoes in his chambers and puts on a pair of carpet slippers, and when he comes to the bench there is a cord attached to the great toe of each foot; the right foot is the sustaining foot and the left foot is the overruling foot. And these cords are run out to Will Curry. Curry is a secret man, not of secret habits, but a man you can rely on, and Curry has these cords convenient to his hands. And we get up there and roar at Judge Robinson, we complain of the faulty condition of the petition or of the answer and declare that we can not tell what the other fellow means, that we do not know what he is talking about from the petition or from the answer, and the Judge sleeps through it all. And just as we are running down, Curry knows it, and he pulls one of those cords. He pulls them alternately, sustained or overruled, and the Judge comes out into the twilight zone of consciousness as Curry pulls the cord and the Judge says, "Overruled" or "Sustained", and then says, "Next", just like a barber and business is disposed of rapidly, and nothing is left for tomorrow. I said to him during this convention, "Judge, how can you afford to take such chances?" And I say this with due deference to those of the bench who are here, because I do not wish the Judge to get in bad. He says, "I find the toe route is just as effective as the head route, as far as these lawyers are concerned." You know, there is a great deal of sense in that.

Speaking of judges, I met Judge Latshaw the other day. Judge Latshaw got his early impressions of the criminal law in Marcy K. Brown's office. Marcy's opinions had great weight, and you go down there today and he will tell you he is the best criminal lawyer at the bar today. I was talking to Judge Latshaw and he said, "Boyle, old Marcy came down and tried a lawsuit before me the other day and he had not been in my court since I was on the bench. Twenty years ago I practiced law before him. He was the big man in my division and it was kind of a flattering thing for me to feel that I was sitting up on the bench. And Marcy was standing down in the arena and he looked up at me and he said, " 'If your Honor please', and doggone it, it did please me." And I might say in passing that Marcy was defending a man that had shot another man in the back and his plea was self-defense; and it goes to show that it pays to be kind to the Judge. I remember the first time I ever tried a case in Judge Philips' court. He would like to hear this because he knows so well. I was a little green at that time and I was a little worried about the procedure and how to get along, and we made our opening statements. I was for the defense. It was a copyright case, or something like that, that I didn't know anything about at that time. I went ahead and was trying my case as best I could and two or three witnesses had gone on the stand and Judge Philips became a little attentive, and finally I found the best trial lawyer west of the Mississippi as the chief counsel on my side of the table, and of course, I won the case, and the foreman of the jury signed the verdict and that was all there was to it. And the Judge and I congratulated ourselves as to this, and I said, "Isn't this a good place to practice law?" And I wondered and said, "What is the need of a jury and wherefore the lawyers" and so forth.

Speaking, however, of lawyers, I can not help thinking of lawyers as I look at Gardiner Lathrop. Do you know Lawyer Clear? When I came first to this good town, I was circulating around

town and getting acquainted; I was trying to escape the laundryman, and I met Clear. Every one at that time was congratulating Clear about having beaten Gardiner in a case in the Circuit Court. Gardiner's fame was then mounting to the zenith and has gone beyond all measurement since then, and we were congratulating Clear, and he says, yawning, "Oh, that is nothing; Gardiner is easy, that is nothing at all."

I want now to submit one serious thought. Milt Oldham this afternoon asked me if I would not seriously urge an amendment to our examing code methods, in connection with the admission of young lawyers to the profession. Milt Oldham, Jim Harkless and a lot of those kind of fellows are very much interested in this. Milt says, "These young practitioners in these large cities should be examined from the waist line down because the distances are so great in these big towns of ours and speed is a great prerequisite."

Speaking of crude oil—you speak of crude oil and its affinities—is John Atwood here? (Laughter.) I see that some of you grasp the point, and I can see that a man might get pretty much disliked up here if he went very far with this thing.

Now, my friends, I want to—Crandall, don't put all this stuff down; here is my speech that I want printed. (Handing stenographer printed manuscript.)

Well, can you think of anything else?

TOASTMASTER HARKLESS: No, you have done it all; you have certainly spilled the beans.

GENERAL BOYLE: Well, my friends and fellow countrymen, I had something I wanted to say about our worthy local chairman of our Bar Association, Al Gossett; I left him at 2 o'clock this morning. I had to. But I must go; time is short, and I want to apologize to Senator Watson and Gardiner Lathrop, but I really have to work for a living—not in the law business, but in other lines—and I must hasten away. I am much obliged to you.

TOASTMASTER HARKLESS: I knew he would do it; he always does, and with all his faults, he has some virtues—very few, indeed—and I am pleased to know that he has stuck to the truth throughout his argument.

The next subject upon the program is "The Country Lawyer", which is to be responded to by the Honorable Robert Lamar of Houston, Missouri. (Applause.) He comes from the sunlit hills of the Ozarks, from the land of the sparkling streams and of the bob-white's merry call, where the songbirds sing by day, and by night "the moping owl doth to the moon complain of such as, wand'ring near her secret bower, molest her ancient, solitary reign". He comes from those environments that make the country lawyers sterling representa-

tives of the Bar, with a fund of common sense and a knowledge of how to use it, all of which is typified in him. He comes from the land which the poet had in mind when he said:

"If I were an umpty-tum-tum
In the land of the olive and fig,
I would sit all day on the tra-la-la-la
And play on the thing-um-a jig.
And if in the what's its name battle I'd fall
A root-a-toot is what I'd crave,
Just bury me deep in the go as you please
And plant a thing-um bobs over my grave."

Robert Lamar of the Ozarks. (Applause.)

ROBERT LAMAR: Mr. Toastmaster and Brethren of the Bar: I was rather beginning to dread my introduction, as I listened to the introduction of General Boyle, and I was thinking of an introduction that was given to me one time when I was campaigning for Prosecuting Attorney a good many years ago. I had a very devoted friend living out in the hills that was active in a small way in his township and was himself very anxious to be elected as chairman whenever there was a meeting held in that precinct. In fact, he would have taken serious offense had he not been elected chairman. I had served one term as Prosecuting Attorney and was a candidate for re-election. A meeting was advertised at the Wolsey Schoolhouse, and this friend of mine, Pres Wolsey, a big, good-natured fellow, weighing about 220 pounds, as usual, was elected chairman. The various candidates for the different offices were present and were presented in turn as their names were reached, until they came on down the list to my name, and in his blundering, good-natured way, he arose and took a horn-handled knife he had and rapped on the desk, and he said: "Ladies and gentlemen, I will now introduce to you as the next speaker, Bob Lamar, who is a candidate for Prosecuting Attorney and is the present incumbrance of the office, and one of the brainlessest young men in all Texas County." After the meeting was over, I took him out and I said to him: "Pres, didn't you make a little mistake in introducing me? You told these people I was the brainlessest young man in all Texas County." He studied a moment and then he said, "Yes, I expect I did make a mistake; I expect I ought to have said, 'The most brainlessest man in all Texas County.'" The last time I attended a meeting of the Bar Association in Kansas City, I was not privileged to remain for the banquet, but I left the Bar Association meeting and went to Sikeston, in Scott County, to attend a Methodist Conference, which happened to be the same week this Association was called in convention. I had been placed on one of the committees that had some work and they had taken up that work before I reached there and I felt that I ought to go to the Bishop and make some apology for being late. So I did, and I explained to him the reason why I was late and told him I had been here attending the Bar Association, and I thought it eminently fitting and proper, in view of the fact I was going to attend a Methodist Conference, that I come here and attend the Bar Associa-

tion a day or two and mingle with the lawyers and acquire a proper spirit of reverence before going down there and mingling with so much divinity. And with a twinkle in his eye, he said he had heard or understood in some manner that there were spirits other than spirits of reverence that sometimes lurked and lingered around Bar Associations, and he trusted those had not been the spirits I had been associated with up here at Kansas City.

After dinner speeches are not exactly my line. I am reminded of the fellow who suddenly became rich. I think he was a butcher and his time had been given to making money at his butchering and rendering, and he had not acquired many of the graces of polite society, but, after he had retired, his wife, by one means and another, succeeded in breaking into the inner circles and on one occasion had succeeded in securing an invitation to a very fashionable masked ball, and she insisted and prevailed upon her husband to go, and to add insult to injury she insisted that he should go in costume and she dressed him up in the costume of Appius Claudius, a Roman Senator, and you can take it from me that he was some Senator, and when he reached the ballroom he was about the most uncomfortable individual you ever saw. And he was standing around the edges and leaning up against the wall, a picture of abject misery, when a kindly disposed soul saw him standing there and, passing along, stopped and thought he would talk to him, and he said, "I notice you are in costume tonight; I see you are Appius Claudius." And the fellow did not quite catch it, and he said, "No, I am not happy as Claudius, I am unhappy as Hell."

Now, I know you have gathered already from these remarks that my subject is about the country lawyer. I have practiced law in the country, in the hills of the Ozarks, for more than thirty years, and I ought to know the password to the meetings of country lawyers. There was a meeting of the Grangers some years ago, when the Grange was flourishing, and they had taken a fellow in and initiated him one night, and after he had been given the ceremonies, they told him the password was "I hoe, I plough, I spade"; and invited him very cordially to come back whenever they had another meeting. A few days after that, or a few evenings, he was passing down the street and observed a light in the hall, and he supposed his brethren were meeting up there and he thought he would go and respond to their invitation, which had been so generously accorded him, and so he went up and rapped at the door and the wicket was pushed aside and some one placed his ear to the wicket and he gave the password, "I hoe, I plough, I spade", and the man on the inside said, "The hell you say", and he could not get in and after fooling around a short time, he went down on the street and on the street he met a brother Granger who had been present at his initiation and he was very indignant at the reception he met with there, and he said to this other member: "You people invited me to come back up, and I went up there and rapped at the door and the wicket was opened and I gave the password, 'I hoe, I plough, I spade' "; and he told him the response that had been given, and the other member said: "Now, you have played thunder; that is not the Grange in session up there tonight, that is a Masonic Fraternity, and you have gone and given them our password." The fellow's countenance fell for a moment, but immediately brightened up and he said, "Well, they haven't got anything on us; I have got theirs." (Laughter.)

The country lawyer, I presume the proper classical name for

him would be "Rusticus", but doubtless those of you who have at various times in your lives been called to the country and tried a lawsuit in some of the country circuits, have found that the country lawyer, when it comes to a discussion of these nice, sharp points of the law, is anything but a rusty cuss. Now, his hair may not be combed in fashion-plate style, but that is the fault of his barber; the clothes of the country lawyer may not always fit him as neatly and completely as the clothes of the city lawyer, but that is the fault of his tailor. And if you go into his office it may not be swept and dusted as nicely as the office of the city lawyer and his shelves may not be so full of bright and new reports and digests and all that sort of thing, as you find in the office of the city brother; but what are there? They look like old soldiers returning from a hard campaign; they have seen service and if some of the writers of the old horn books were to go into the offices of some of our metropolitan brethren they would feel like unnaturalized strangers, and if they were to go into the office of the country lawyer, they would find the cream of their life work occupying the place of honor on the shelves of the country lawyer. Coke and Chitty and Blackstone and Kent and Story and Stephens and those old horn books, furnished the food which was the daily life of the education of the country lawyer. The fact of the business is, that in looking up the ancestry or rather the pedigree or antecedents of most of our city lawyers, I discover that many of them had the forethought and wisdom to have been born and received their legal training and education somewhere in the country.

The country lawyer is an eclectic, while the city lawyer is largely a homeopath and deals largely in specialties and specifics. In the field of equity, the country lawyer roams at will, while my experience is that the city lawyer rarely ventures into a court of equity unless he is proceeding by injunction, and they rely on it as explicitly as the old time darky relies on his rabbit's foot. The country lawyer can live and does live largely by the rule laid down by Sir Edward Coke:

"Six hours for sleep,
In law's great study, six,
Four spent in prayer,
The rest on nature fixed."

The very environment of our city brother forces him to live by the rule laid down by Sir William Jones:

"Seven hours to law,
In soothing slumber, seven,
Eight to the world and state,
And none to Heaven."

It is true that the country lawyer has perhaps more hardships than the city lawyer, but that is not without its compensation. In a serious vein, I wish to say that I believe the purest, sweetest, best and most unselfish friendships that come to men in this selfish world are the friendships and the ties between the country lawyers, who meet each other in the courts and in the circuits, going about their daily affairs. (Applause.) And tonight as my memory runs back over a list of names of country lawyers I have known, the

words of the poet are brought to my mind, "Oh, for the touch of a vanished hand, for the sound of voice that is still." And my friends the practice of the law in the country is still a profession and so regarded and esteemed, while in the city in a large measure it has become a business except at these annual Bar Association meetings.

In my home town five or six years ago a movement was inaugurated to secure the picture of every man who had presided over our court as Circuit Judge since our county was formed, and of the deceased lawyers, and I am glad to add that the picture with a portrait of each of our judges and each of the lawyers who have lived and spent their lives in that county adorn the walls of our courthouse today, and I wish that were a practice indulged in throughout our state.

The country lawyer is naturally a conservative; he likes the old things, the old books, the old friends, and, until the advent of a certain sentiment within the last few years, there was some of them that loved the other member of the famous trinity, usually of the Kentucky brand. The country lawyer perhaps may not have all the advantages of the city lawyer; he may not be able to and does not perhaps indulge in all of the refinement of the city lawyer; rather he uses the broadax as a weapon, while the city lawyer uses the razor blade, but when the jurisprudence of a state is to be laid, a broadax is a very effective weapon. The country lawyer may not be able to quote from the classics; he may not be able to indulge in all of the allusions that the city brother may, but he associates with nature, and as nature in all her varied moods of storm and sunshine furnished the Indian with tropes and similes to garnish his rude speech to the point of touching hearts, so it is that nature in the daily touch with the country lawyer, as it comes to him in the broad fields and the clear skies and the unstudied gossip of his neighbors and the kindly, but humble speech of those with whom he lives, gives to him a strength of copious illustration and insight into the minds of men that enables him to touch with master hand the cords that lead to hidden thoughts and move them at his will.

And, speaking of similes and references to nature, I recall a year or two ago, one of our country lawyers over in Shannon County was trying a replevin suit over there over a mule colt. A widow had had a mule stray away and it had been gone for several months and some of the neighbors discovered what they thought was her mule over twenty miles in the other side of the county, and a replevin suit was brought and, as is usually the case, the identity of the mule was proven by about a dozen witnesses on both sides, absolutely and positively identified by men who had known it from a colt. The lawyer for the plaintiff was an old man who claimed he knew the mule from the time it was born. This lawyer was arguing the case with great vehemence and he was denouncing the other fellow for trying to get that colt away from the widow, and he was a man that talked very rapidly and vehemently, and he always used the double plural in talking to the jury; he said: "Gentlemens", and he said, "Gentlemens of the jury, we have proven to you beyond any question that this mule was foaled by James H. Kirtman in the spring of 1914", and here those in the court room and the judge smiled, and the lawyer, pitching his voice a little higher, continued, "Gentlemens, any man who would undertake to steal a widow-woman's colt ought to be led into a corner

of the lot, pushed through a brush fence and kicked to death by a jackass, and I would like to be the one to do it." (Laughter.)

We were speaking of the country lawyer's clothes, and I would like to tell a little personal experience in regard to a client of mine who lived in Omaha. I had a client who lived in Omaha who had several thousand acres of land in Shannon County. He sold this land on long-time payments and took back notes and a deed of trust. A man went down and began cutting the timber off this land and putting it on a train and shipping it out, and the owner found out about it and telephoned me to file an injunction. I knew the situation down there and that the local lawyers were employed by the man who was getting the timber out and I decided that the best thing to do was to file an injunction in the Federal court. It was soon after the amendment to the equity rule which provides that you can not get an injunction without notice, except in extraordinary cases, so I prepared my petition and proceeded to the office of the clerk of the court. I had left home hurriedly and gone down into Shannon County and had gone to the woods and over the hills to see what was going on and did not have time to go home. And when I reached the city where the court was, and where my client lived, who had never seen me before up to that day, I was not dressed in fashion-plate style, and when he met me I think he sized me up in rather an unsatisfactory way. He was well groomed and portly and rather fastidious in his dress. But, he said nothing, and I went up and filed the petition, and I asked the clerk if the judge was in his chambers, and the clerk said to me, "He won't give you an injunction, he will ask you to show cause." Well, we went into the court room and they were arguing a case before a jury and I thoughtlessly laid my hat, which was a little dirty, on the table, and the baliff came and grabbed it up and said, "You can't lay your hat there," and he put it in the locker. That mortified me. After they finished arguing the case on trial, I arose and addressed the court and stated the situation and the nature of the relief asked for, and as soon as I had finished making my statement, he said, "Yes, that is the way with you Democrats, you have been going around here through the state ten years denouncing the Federal court and arousing the prejudice of the populace and decrying government by injunction, and now you are here wanting an injunction." My client looked at me and I felt like sinking through the floor. Then the Judge said, "Have you got your bond ready?" I said, "No, Judge, but I have arranged with a surety company, but you have to fix the amount." He said, "How much of a bond do you think you ought to give?" I had figured it at a good stiff sum, and I suggested a modest sum, $500.00, and he said, "The timber won't get away, I guess; you get your bond fixed up and come around to my chambers in the afternoon and I will fix you up." So I came back in the afternoon with my writ prepared and I started to read it, and he said, "I guess you would not prepare anything that I ought not to sign", and he signed it. The country lawyer, by years of study, undisturbed by the smiles of fortune, by years of reflection and friction against his fellows in the ordinary walks of life, gradually gains wisdom. He has already gained hardness and strength, as the athlete gains it, by daily endeavor until, year after year, in our nation's history, we find him coming from the obscure parts of the country to lead the bar of the metropolis and to adorn the bench of the state and federal courts, and to

crystalize into enduring law the wisdom gained by him in his practice in the country, by the study of those books that God made, the minds and thoughts and aspirations, the feeling, of his fellow men that he was so long and closely in touch with during his years as a country lawyer. (Applause.)

It seems to be the fashion of late years to criticize the law and lawyers and, as a member of the country bar, I want to make this observation, that the criticism of the courts, the criticism of the lawyers, the demand for the referendum, for primary elections and so forth, do not emanate from the brain of country lawyers. I am glad that I can say, after thirty years of practice in all sorts of courts, from that of a Justice of the Peace to the Federal Supreme Court, that I never have yet tried a lawsuit, and I have tried many and lost some and met with many bitter disappointments, but I have never tried a lawsuit before a judge and court for whom I can not say tonight that I have the most profound respect and in whose integrity I have not the utmost and unbounded confidence. (Applause.)

There seems to have grown up a school of would-be political reformers who would override laws, abolish constitutions and recall judges; and the country lawyer, by the very logic of his situation, has been unalterably set against and opposed to that. These things come periodically like epidemics. They complain of the law and they refer you to England. They forget that it took seven years to try Warren Hastings. The complaint as to the delay of the law is as old as time. Solomon says: "Because satisfaction against an evil work is not executed speedily, therefore, the hearts of the sons of men are set in them to do evil." The immortal Shakespeare put into the mouth of the melancholy Dane seven reasons why a man should his quietus make with a bare bodkin, and assigned as one of them that he would cease to be troubled by the law's delays. More than two centuries later, Charles Dickens wrote Bleak House and laid bare the dilatory practices of the English courts.

It is perhaps true that in some of the old countries trials are more speedily had than in those administering the English common law, but how long, think you, would American citizens tolerate the court procedure of a Russia or an Italy? The first to resent the autocratic power of the judiciary of these countries would be those who are now clamoring for such procedure.

Our fathers laid down the broad principles of individual action and safeguards to protect human liberty, which the great masses of American people will never suffer to be broken down. It is doubtful if all these reformers understand what they want. They are like the Irishman who clamored two hours against a proposition and when he was asked what it was that he had against it, replied, "Be dad, I don't know, but whatever it is, we will fight it."

The truth is, that gradually, in an orderly, systematic and constitutional way, the law and its administration is being not reformed but developed and bettered and adapted to the growing needs of our civilization. There seems in some mysterious way to have grown up an idea that however honorable a man may be in the other relations of life that in his professional relations the average lawyer abandons conscience and recognizes and adopts any means however dishonorable or disreputable, to reach the desired end. But, before passing, perhaps you will inquire why I have indulged in these remarks with reference to the referendum, with reference to the recall of judges, and touching upon that. It is

because of the fact that in my judgment, the honesty of the country lawyer, the great mass of country lawyers all over this land, their conservatism and their devotion to the constitution, to the constitutional law, and to individual liberty, and to the firm and untrammeled freedom of the courts, has already stayed the hands of those who would have laid their hands upon the ark of the covenant and but for the country lawyers, we today perhaps would have had the recall of judges and the recall of judicial decisions by popular vote in this land. (Applause.)

The country lawyer, when he dies, may die indebted to his tailor, when he dies he may die indebted to his merchant or to his grocer, but one thing is absolutely true, he will not die indebted to the constitutional principles upon which this government exists and upon which it is founded.

I am not going to detain you with the remainder of what I had written. I promised myself at the beginning that I would not punish this audience by keeping you waiting for the very great treat I am sure is in store for you. I thank you. (Applause.)

TOASTMASTER HARKLESS: "Should auld acquaintance be forgot, and aul lang syne." To this sentiment a response will come from our good friend, Gardiner Lathrop. (Applause.) My friend, Gardiner, you are tonight in the house of your friends, who all feel the kindest regards for you and welcome you back in the days of your eminence and prominence with the glad hand of fellowship. I take great pleasure in introducing our friend from Chicago and Kansas City, Gardiner Lathrop. (Applause.)

MR. GARDINER LATHROP: Mr. Toastmaster and gentlemen of the Missouri Bar Association. It is difficult for me to talk tonight. The suggestion of old acquaintance brings back to my mind, in the forty years and more that I have been at the bar, so many faces that I can only see floating, so many hands that I can grasp no more, so many voices that are still, that my lips are palsied, and my voice has but little strength. I prize those friendships and I want to say to my distinguished friend whose speech about the country lawyer I enjoyed very much, because I was brought up in the country myself and knew and admired the country lawyer while a boy, that the friendships of the Bar know neither town nor city where lawyers meet. He may contend and strive mightily, but the same heart and the same handclasp and the same loyalty through good and ill report animates every member of the bar, whether he lives in the country or lives in a metropolis.

I am not going to speak long tonight; I am not going to dwell on a somber vein. I am going to spend the remainder of the few minutes I have to talk in recalling a few incidents that have happened along the way, in a lighter vein. My friend and our friend, Mr. Lamar, spoke of his introduction at a meeting where he was a candidate for re-election as prosecuting attorney, and he told the words used by the presiding officer who introduced him, which recalls an incident, a true one, gentlemen, and

that happened a great many years ago. There was a lawyer of the old school, whom I knew as a young man. His hair stood straight up on end and he wore in court a long alpaca coat. When he was not actually using his spectacles he put them up on top of his head so he would always know where to find them. He prided himself not only upon his knowledge of the law, but upon his knowledge of letters as well, and he said one morning to one of his young friends in the town where he practiced and where the young man practiced, "You have often noticed, haven't you, my young friend, how ready I am in court and upon every occasion, never at a loss for a word?" He said, "In all my life, in all of the public speeches I have had to make in court or on the platform, the exact word has always come to my mind instantly, the word that was most appropriate, and the only word in the English language that ever gave me any trouble, and I don't use it often for that reason, but there are certain occasions when I have to use it, and every time I am called upon to use that word I have to stop and think twice to be sure and get it correct, and that is the word 'idioscynchronoserom'."

Speaking of lawyers, of the olden time, I recall an old Circuit Clerk who had been in office from time immemorial, but after twenty or twenty-five years in office, in one of those upheavals in politics with which you younger men are quite familiar in this day and age, this old Circuit Clerk was defeated and casting around for a means of livelihood, for he had a wife and a child to support and in the early days the fees of a Circuit Clerk were not such as to make a man opulent, and he concluded that he would become a member of the bar. Those were the days, gentlemen, before there were bar examinations by committees, a very proper reform that has come about in this later day. This old Circuit Clerk had become familiar with the statutes of the state, he had become versed in the correct preparation of entries furnished him by the lawyers, he had heard many cases tried, he had heard many arguments, and he was familiar with the instructions given by the Court at the request of the lawyers on either side. So he filed his application and, as was the custom in those days, the Judge appointed a committee and the committee visited the Circuit Clerk and he gave them a spread, both of salads and liquids, and he was reported favorably upon and duly admitted. He rented a small office and hung up a sign, upon which was inscribed these words. He was also, I may interpolate, familiar with Kelly's Guide, which our president seems from the account of a reputable witness to have been very familiar with in his early days. He hung up his sign and upon it were these words: "John Jones, attorney at law and notary public; practices before Justices of the Peace and takes easy cases in the Circuit Court." (Laughter.)

In the early day, in my experience and remembrance, there were good Jews; there have always been good Jews, and a good Jew loves a good story on his own race. This is an incident in my own experience. I had a Jew client, and one of his customers or friends came from New York and he had a collection, and, as we were in the collection business at that time, and I believe from

all accounts are still in it, my firm, to some extent, my client brought in his Jew friend from New York, who left his claim with me and then proceeded to have a little visit among themselves. And they were discussing various acquaintances of the same race, whom they mutually knew, and my client turned to this New Yorker and he said, "What is the matter with Instein anyhow? That fellow has failed two or three times already and still he ain't worth a damn cent."

Another Jewish incident that I recall: Two Jews were standing on the corner of the street. One said to the other, "Isaac, I understand you don't believe there is any such place as Heaven?" "No, sir, I don't; most emphatically I don't." "Well, then," the other Jew said, "I suppose you don't believe there is any such place as hell, either?" "Well," he said, "I don't know as I am so sure about that. That is a different proposition, because there must be some place that business has gone." (Laughter.)

But time is passing and we are all eager to hear our distinguished Senator from Indiana, brilliant as a lawyer, brilliant upon the platform, a wise counselor, a prudent statesman and a patriot in the national halls of legislation. (Applause.) And so, without further ado, I am going to close with these words:

For old and young, our profession is and ever has been one of high ideals, of elevated standards. Legal learning is desirable, good common sense and business judgment are worth much more, but the one essential of a good lawyer is character, and, thank God, through good and evil reports, with only an occasional exception, the American Bar has kept its character pure and clean. In these days of conflict the world over the use of military terms seems most appropriate. From the beginning of time the lawyers have fought against crime and vice and dishonesty and fraud, and for the maintenance of orderly government, the preservation of the family, the protection of personal and property rights. And as those in the front ranks have fallen from age or disease, their places are at once filled by the next and succeeding generation who continue the same good fight. The contest will never cease, so, that for you younger men there will be plenty of work to do when we old ones pass on.

But, with all the contests of conference and court room, the friendships of the bar, as I have already intimated, are proverbially strong. Their hearts can always be located in the right place. What Shakespeare said is still true, "Do as adversaries do in law, strive mightily, but eat and drink as friends."

The meetings of this Association, and I have participated in many, going back more than a quarter of a century, are full of pleasure and profit, and I feel, my friends, as the three Apostles felt on the Mount of Transfiguration, and I say it in reverence, that it is good for us to be here. (Applause.)

TOASTMASTER HARKLESS: Gentlemen of the Association, "The Constitution", old, but ever new; unchangeable, but apparently changing. Upon this subject we will hear from the distinguished lawyer from Indiana, who has for fourteen

years represented his state in the lower house and now honorably graces the position of United States Senator from his state. He is bold, eloquent and a gentleman all the time. I am not here, my fellow citizens, to intimate or state who may or who may not be presidential candidates in the future, but I feel justified in saying, "Keep your eye on Watson of Indiana". (Applause.) I take great pleasure in now presenting him of whom we and the Nation are proud, the Honorable James E. Watson, United States Senator from Indiana. (Applause.)

SENATOR WATSON: Mr. Toastmaster, and members of the Missouri Bar Association: It is indeed gratifying to me, I assure you, to stand in your presence this evening, to look into your kind and sympathetic faces, to witness your enthusiasm and to share with you the pleasures of this occasion. I have very greatly enjoyed the evening and all of the various speeches that have been made, rich and eloquent and abounding in those things that lawyers so much like to hear, and I very greatly regret that the hour is such that I shall not make to you the speech I had intended to make, but shall rather confine myself to other things that come to my mind as touching the present situation in this republic. Your toastmaster very graciously presented me. He said some beautiful things and he uttered a prophecy, and, while I know that those things are not true, I like them notwithstanding. (Applause.) So far as that prophecy is concerned, I may say at the beginning that I am very much like Uncle Joe Cannon was on a certain occasion at a banquet when some one nominated him for the presidency at the succeeding campaign, and when the old man came to respond he said in real Cannonesque fashion: "Now, in regard to this nomination for the presidency, I think that my party might go much further and do a great deal worse, and damned if I don't think they will." (Laughter.)

THE CONSTITUTION.

My friends, I have no fears for the safety of the Constitution in a time of war. I have grave fears for the safety of the Constitution in the peace that shall ensue, because of the precedents that have been established in the time of war. The Constitution of the United States is a war constitution as well as a peace constitution, and the Constitution of the United States is still in force in this Republic. (Applause.) While we are engaged in the most titanic struggle that has ever shaken the earth, yet we are not in the midst of a revolution. The President of the United States holds his position by virtue of the Constitution; every Congressman occupies his seat in the national halls of Congress by reason of the Constitution, and I unhesitatingly assert that the provisions of every act that has been passed by this Congress are clearly within the limitations imposed by the Constitution of the United States. (Applause.)

Gentlemen, the Constitution has distributed the powers of government in the time of war, just as it has distributed them in the

time of peace. Congress alone has the power to declare war, and to the keeping of Congress is committed the right to provide the revenue; and Congress alone has the authority to raise and equip armies; there is no limitation on that power, it is an absolute grant of authority. Congress may raise an army in any way that appeals to its judgment; it may use the volunteer system, it may use the draft system, or it may use them both. The right and the power are undisputed. It is a question of policy for the consideration of Congress, and therefore, when it is proclaimed throughout the country that conscription is unconstitutional, let it be understood that there is no warrant in either law, precedent, or authority, for that assertion. (Applause.)

POWERS OF CONGRESS.

Congress has the power to support the army. It may do so by levying taxes of any kind and of every character; impost taxes, income taxes, excess-profit taxes, tariff taxes, internal revenue taxes, every kind of tax that will support the American army fighting under the American flag. (Applause.)

Congress has the right and the power to maintain a navy after it shall have been established and to adopt any measure for its maintenance that to it may seem wise, because its power to establish and maintain a navy is unlimited. Congress may provide for battleships of the first or second class, or cruisers of the first or second class; it may provide for submarines; it may provide for torpedo boat destroyers; it may provide for any and every kind and character of sea craft, for the Constitution vests that power wholly in the Congress. It is not a question of right, it is a question of policy; it is not a question of power, it is a question of expediency, and every act that has been passed by the American Congress looking to the establishment and to the maintenance of the navy is within the power of the American Congress and within the limitations imposed by the Constitution, and every act passed by this Congress for raising and equipping the army is clearly within the scope of its constitutional authority.

THE POWER OF THE PRESIDENT.

And, my friends, after the army shall have been raised, Congress has but one more point of contact with it and that is to support it. Aside from that it is wholly within the control of the executive branch of the government. Under the Constitution of the United States, the President is the commander-in-chief of the army and navy; his power is and should be unlimited in that respect. (Applause.) The fathers who formulated the Constitution were no strangers to war. They had emerged from a contest of seven years of, to them, most bloody and heroic strife. They understood the necessity of having a one-man power for military success and they placed in the charge of the President of the United States the command of the armies and the navies of the republic. This power is unlimited, it is unquestioned, it can not be denied.

It has been stated that it is unconstitutional to send our troops to France—to send them outside of the limits of continental United States. There is no warrant in law nor is there any authority or any Constitutional precedent for that statement. (Applause.) Why, it has been done over and over again in our history. In the war

of 1812, we sent our troops into Canada. In the war with Mexico we sent army after army down into the confines of that country. In the war with Spain we sent our troops over to the Philippines to spread the blessings of liberty beyond the rolling billows. And we sent them into Porto Rico and into Cuba and we had them in Hawaii even before Hawaii was annexed to the United States and became a part of our country. And there is nothing in the Constitution of the United States that prevents the President if in his judgment it is wise and expedient and essential, from sending our boys into sunny France. (Applause.) That is a question of expediency, that is a question of policy, for nobody in the light of either experience or of constitutional authority can gainsay or deny the power.

RECENT BESTOWAL OF POWERS.

While all this is true so far as the army and navy are concerned and the military power of the government, it is not essentially true as to the business of the United States. Military power is essentially a one-man power; it means the finest organization of which man is capable; it means the standing side by side in inexpugnable phalanx of all the men that constitute the army; it means the most perfect human machine that can be constructed, and that means one man at the head of it all and commanding it all. But that is not essentially true of business and industry and commerce. In the United States of America, business is not a one-man power, nor can it ever become a one-man power in the time of peace without endangering our institutions. My friends, you say to me then, that we have transgressed the limits of the Constitution? No. The President of the United States and the administration have said to Congress that this added power is essential for the safe conduct of this war, for its successful waging, and that, to make victory sure, these war-time powers should be granted to the executive branch of the government. We have granted those powers, and we have granted them with the express understanding—not only that, but with the express wording in every instance—that all those powers shall cease with the proclamation of peace, so that these are war powers within the meaning of the Constitution of the United States. Does that mean that the Constitution of the United States is placed in abeyance? Does that mean that we are trampling its manifest provisions under foot? By no means. It means that we are enforcing the war power granted by the plain provisions of the Constitution itself. Why? Self preservation is the first law of nature, and the Constitution of the United States never grants Congress or the executive power with one hand, and then with the other hand takes it away. It must not be forgotten that one of the very reasons for the establishment of the republic was the common defense, and that common defense, when the republic is assailed, or when its flag is imperiled, supersedes all other considerations and becomes the supreme object of the Federal Government, and, therefore, the doctrine of self preservation is a doctrine that is safeguarded in the manifest provisions of the Constitution itself.

Now, the militia, the state militia, as such, under the provisions of the Constitution, may not be sent into a foreign land or upon foreign soil, because the Constitution itself specifically provides the objects for which the state militia is organized and the

purposes for which it may be used; but, when the state militia is organized as a part of the national guard, under the authority of Congress, and afterward by act of Congress, or by act of the executive branch of the government under an authorization of Congress, that national guard is drafted into the fighting force of the country, that is one of the methods of raising an army and is constitutional in this land. (Applause.)

Of course, we do not use these vast powers of government in a time of peace because their exercise is not essential to the preservation of the Union nor to the welfare of its citizenship. The right to do so exists, but in a sense remains latent because there is no occasion for its exercise. Congress has the same right to raise the same sized army in peace as in war, for that is a question of policy and not of right, and the right is never exercised because there is no necessity for it, but it can not be denied that the right, nevertheless, exists.

But the great powers vested in the President in time of war are not peace powers, but are essentially war powers. No one would dream of conferring such vast authority in time of peace, nor, in my judgment, would Congress be authorized to give him such tremendous power except in war.

The right to raise and equip armies and establish and maintain navies is always with Congress, but the right of that body to confer autocratic power upon the President arises alone out of the necessity occasioned by war. And Congress in this extreme emergency exercises this right only because it is deemed essential to the preservation of the government and the institutions guarded by it.

The hour is growing late (cries of "go on, go on"). I thank you, but I do not desire to impose further upon your patience.

REASONS FOR THE WAR.

Gentlemen, I believe that we have gone into this war for sufficient American reasons. (Prolonged applause.) I have never taken the European viewpoint of this conflict, and in this I am speaking only for myself, as an individual. No political party has met, no platforms have been adopted, no resolutions have been passed. In the Senate of the United States, I am very happy to say, we have had neither political division nor discord. (Applause.) Democrats have divided, Republicans have divided, and each individual has been permitted, without let or hindrance, to seek out his own course and determine his own policy. I believe in such a manifestation of American liberty in the halls of legislation and I believe it with all my heart. (Applause.)

But, my friends, there are American reasons for this war. If I had my way about it, I would never send one Missouri boy to Europe in order to fix the boundary line of Serbia; if I had my way about it I would never send one Indiana boy to France to determine what shall become of Alsace-Lorraine; that is none of our national business. We may have our individual sympathies, but it is not the province of the American government to go about over the world settling disputes and trying to involve ourselves in the intrigues and cabals of European politics, in which we have no national interest. I would not shed one drop of American blood in order to determine the character of the government that is to exist in Germany; that is none of our national business; that is their business. My friends if we are fighting to make the

world safe for democracy, we must not forget that the very essence of democracy is that a people shall be permitted to have the kind of government they want and to determine by themselves and for themselves what that form shall be. (Applause.) And so, we do not now have the European viewpoint. We may get it later; I do not know, for I realize that in the hothouse of war the plans and purposes of nations ripen very rapidly. We will all recall that at the beginning of the Civil War, Abraham Lincoln's only thought was to save the American nation. Save it without slavery if might be, save it with slavery if must be, but at all hazards save the nation. And when our army was mobilized and marched down upon Southern soil, it was not with the thought of striking the shackles from the slave, but to save the imperiled republic. But, after a while, in the ripening course of events, Abraham Lincoln concluded that slavery was the backbone of the Southern Confederacy, and that the slaves staying at home and providing the means for the support of the army was the main power that was sustaining the Southern Confederacy, and, thereupon, he exercised his constitutional power, although he had not intended it at the beginning, and penned the Emancipation Proclamation which made all men equal under our flag; but that was not in his thought at the beginning of the war.

I do not now see that it will be necessary for us to mix in the intrigues of European politics or to permit European nations to have a voice in determining our political affairs. I do not know what policy the future may compel and I speak only from the present outlook.

GERMAN OUTRAGES.

I know this, however, that we have abundant American reasons for entering this conflict and I am not now disturbed about any foreign reasons that may have actuated us in the beginning. What are the American reasons? For two years and a half Germany had conducted an indecisive warfare and, realizing that some additional step was necessary if they were to succeed in this war, their government determined upon the submarine policy that has since startled the world by 'ts ruthlessness. To that end they literally fenced off by their submarines a zone in the Atlantic Ocean fourteen hundred miles wide by eleven hundred miles long and at once served notice upon the other nations of the world that they intended to destroy any ship that came within that zone; no matter what its character; no matter what its cargo; no matter what its destination; no matter what flag it might carry; no matter what its mission; whether an English battleship bent on the destruction of German commerce, whether a Red Cross vessel bearing the means of mercy upon a mission of succor and peace, it was to be destroyed if it came within the limits of that zone, and was to be destroyed without warning and its cargo and its passengers sent to the bottom of the sea.

When questioned as to the rights of American vessels in this zone, the United States being a neutral nation, Germany determined to give no heed whatever to our neutrality but to treat us and all other nations on the same terms. Her government deliberately came to the conclusion, and acted upon that conclusion, that the American people would not fight, that we were a peace-loving people, that we had grown fat and lazy and indifferent, that we were a

nation of shopkeepers whose only god was gold and whose only shrine was Mammon, and that she might attack and destroy our vessels with impunity and without our even seeking reprisals, much less without our entering upon the horrors of war.

And the German Government further believed that, even if the American nation were to determine to fight, yet their submarine policy would destroy the commerce of England and France and bring those countries to an enforced peace before the American nation could prepare for war. They knew of our unwillingness to fight, they were well aware of our total lack of preparedness for any armed conflict, and they, therefore, determined to ruthlessly destroy our vessels and run the risk of war with our people. Those were the two compelling reasons that led Germany to adopt her new policy with respect to our country. Germany, therefore, denied us the freedom of the seas and it should not be forgotten that our fathers went to war with England in 1812 for that same cause. And in carrying out that declared intention she ruthlessly destroyed American property, she murdered American citizens, she blew up American ships, she outraged the dignity of the American nation, she insulted the glory of the American flag, and that is cause enough for war with any people at any time. (Prolonged applause.) And so, my fellow cit'zens, we do not need to go abroad to find ample justification for this conflict, for we have all sufficient American reasons.

After all these vessels had been sunk, and all this property had been destroyed, and 250 citizens thus murdered on American vessels, Congress came together in special session on the 6th day of April, 1917, and, with a unanimity that startled the world, voted a declaration of war.

Has American patriotism so dwindled in these years that we should permit these gross wrongs without retaliation? Are we so besotted with ease that we can timidly submit to these outrages upon our rights? No, and appalling will be the condition when we become so. And thus it can not be denied that we went to war because Germany murdered American citizens without right, because she destroyed American property without warning, because she trampled under foot all international law, because she disregarded every international treaty, because she outraged the dignity of the American republic, and because she insulted the glory of the American flag.

We declared war in order to defend American rights, to safeguard American property, to protect American honor and to defend the American flag, and that ought to satisfy any man that we are in this war for American reasons and for American purposes, to vindicate our rights and avenge our wrongs, and for those purposes this has become our war.

THE LARGER QUESTIONS.

But, gentlemen, there are other and even greater reasons why we are involved in this conflict, reasons that go to the very bottom of our governmental structure, reasons that are forever vital, reasons that are as broad as humanity and as deep as the centuries, reasons that involve the fundamentals of all government and, in my judgment, the perpetuity of American institutions. What are those reasons? Ideas strangely reappear from time to time in human history. If they are vital they can never be uprooted.

They will persist among all peoples and throughout all time. They will manifest themselves on occasion in every clime and in every race. All they lack is an opportunity for manifestation and they force themselves inevitably to the front.

The one great philosopher whose ideas led to that tumultous and volcanic eruption known as the French Revolution, was Jean Jacque Rousseau. In burning words he taught France a new doctrine in government, liberty, equality, fraternity. Those ideas set fire to the chariot wheels of progress and scattered terror and dismay on every hand. They took complete possession of France and swept across into Germany and were undermining Germanic influence and the foundations of the Germanic Empire.

When Napoleon was a young man leading the forces committed to his charge, he shotted his guns in the streets of Paris in defense of the people as against the aristocracy. He afterward became ambitious to such a degree that he sought power and forsook the people, but in the beginning of his career he was the representative of the ideas of Rousseau. From that time to this there has been constant conflict between France and Germany, largely induced by this fundamental difference in their theories of government. Democracy—Autocracy; Liberty—Despotism; Equality—Imperialism. The irreconcilable conflict to be waged for years in peace and finally to be settled by the arbitrament of the sword.

THE GERMAN IDEAL.

Frederick the Great was the first of the masterful Prussian rulers. His was a marvelous genius for organization and he was inspired by a vision of Germany's future greatness. To this end he set out to make Prussia the most powerful nation in Europe, with a view to the ultimate world power of the Germanic people. His successors, having inherited his spirit, followed in his footsteps and, as far as possible in their day, executed his plans.

Napoleon met his Waterloo in 1815, and his dream of empire vanished with that defeat. The same year there was born, in one of the countries which now comprise Germany, the most masterful statesman in intrigue and diplomacy that the world has ever seen, Otto Von Bismarck, a man of blood and iron, of indomitable spirit and incorrigible will. He imbibed in his youth ideas of Germanic greatness from college and university and from his frequent contact with the writings and ideals of the great rulers of Prussia. In the course of time he came to be the Prime Minister of that country, and in his vision there was outlined the future of the mighty Germanic empire, welded together by the spirit of militarism and riveted by military power. It was his first thought to make Prussia the dominating nation among the Germanic people. To that end he began a vast industrial and intellectual development of his own land. Under his influence a general school system was inaugurated, colleges were established and universities endowed. He stimulated invention and rewarded inventors. He established factories, he constructed highways, he developed mines and gave a great impetus to agriculture. All this time he was preparing the people of Prussia for future imperial domination.

BISMARCK'S INSPIRATION.

Frederick William, the father of Frederick the Great, was the real progenitor of the Prussian Kingdom and of the Germanic Empire. But it was left to his son, Frederick the Great, to formulate principles for the future operations of the government, and those principles the succeeding rulers have adhered to, and those principles Bismarck so wove into the fabric of their government that all must fall together; and I want to show you, as briefly as I may, how a few of those fundamentals have been faithfully and ceaselessly followed from then to now, and how this day they are strengthening the arm of every German soldier marching for the destruction of all the ideals in which we believe.

Austria was then the first of the German countries, but Bismarck, after the Prussian army had been thoroughly prepared, picked a quarrel with that country, and after a brief campaign that ended at Sadowa, the power of Austria was overthrown and Prussia assumed the primacy among Germanic peoples.

In the meantime the ideas of Rousseau were permeating the society and influencing the civilization of that country. French was the court language, the university language, the language of polite society, and the language of the learned, and the ideals of Rousseau found fruitful soil taught in the original tongue among the peoples of Germany. Bismarck knew that these ideas would ultimately overthrow the doctrines of the Prussian Empire and, therefore, used all the force of the government to prevent the French language from being longer taught or spoken anywhere in Prussia. And he exerted every ounce of his tremendous influence to quench the ideas of Rousseau and prevent their further spread among the people over whom he had control.

To make sure of this task he prepared for years to humble the power of France. Up to that time that country was the great literary nation of Europe and her people had achieved marked prominence along many lines of activity. Her ideas of liberty, equality and fraternity were dangerous to Germanic influence and, therefore, the thought uppermost in the Prussian breast was to destroy this country, prevent the further use of the French language and prohibit the teaching of the French ideals of government among the peoples of Germany.

In order to more easily accomplish the task of humbling France, Bismarck pursued a course that will always stand out in the history of the world as the crowning act of sinister statesmanship and Machiavellian diplomacy. By intrigue he brought England and Russia almost to sword points and, while they were watching each other preparatory to a coming conflict, the masterful troops of Prussia plunged into France, and after a brief but brilliant campaign which ended at Sedan, the French forces were crushed and that splendid people was humbled in the presence of Germany.

After this victory that country became supreme in continental Europe and the dream of Bismarck was realized, for William the First was crowned Emperor of Germany and all of the twenty-two countries that composed that nation were annexed to the Prussian crown and became a part of that mighty empire. Bismarck with consummate skill, with unflagging energy and indomitable zeal, seized all those discordant countries with their jealous rivalries

and conflicting claims and merged them under the Prussian crown into one of the firmest governments the world has ever known.

GERMANY'S CONCEPTION OF GOVERNMENT.

And in the meantime, gentlemen, the people of Germany have not been oppressed. Their farms have been developed, their industries have been diversified, great factories have been constructed, their resources have been utilized, splendid universities have been established and every inducement has been given to the people to be thrifty, industrious, frugal and unremitting in their zeal for the upbuilding of the Germanic nation. The Germanic idea is that every unit of society should be developed to the highest attainable state; that every individual should be brought to the greatest possible degree of efficiency, in order that, the whole of the individual units of society being thus developed, and all of their power and their efficiency being used for the aggrandizement of the state, the state would thus be vastly greater than if founded on ignorance and superstition and sloth. There the development of the individual is for the benefit of the empire. Here it is for the benefit of the individual himself. There the people exist for the benefit of the state; here the state exists for the benefit of the people. That is one of the fundamental differences between these two antagonistic civilizations. (Applause.)

Now, after France had been subdued, Germany levied upon her a tribute of a billion dollars in gold, and 375,000 soldiers were quartered on French soil to remain until both principal and interest were paid. Then William and Bismarck turned back into Germany exulting because they both believed, and the world believed, that France could never recover from that blow; that she could never escape from that vast burden of debt. And then, gentlemen, occurred one of the greatest marvels in the financial history of the world. The French people proved to be far more prudent and thrifty and energetic and able than had been dreamed even by their European neighbors. Thus pressed, they went into the secret places where people are wont to conceal their treasure and brought forth one billion dollars in gold and in three years time paid the entire principal and interest, and the 375,000 German soldiers marched out of French territory with dejected mein, because their dream of ruling France had been dashed to pieces; and that country soon became so strong financially that she loaned two billion of dollars to the other nations of Europe, although Germany had wrenched Alsace-Lorraine from her possession.

GERMANY'S OPPORTUNITY.

For forty years Germany has been preparing for the present conflict. For forty years she has maintained an army which for numbers and efficiency has never been rivaled in the history of the world. She has been harboring the desire to crush France, to usurp the maritime power of England, and to prevent the further spread of republican ideas among the peoples of Europe. For years she has been awaiting the opportunity to strike. And what were the conditions of the different countries of Europe when that time came? Gentlemen, when this war broke out on the last day of July, 1914, there was almost civil war in England. There were 100,000 men in one part of Ireland proclaiming their unalterable

intention of having Home Rule. They were mobilized, equipped and ready to fight. In another part of Ireland there were 100,000 other men proclaiming that there should be no Home Rule. They were equally prepared for conflict and equally determined. King George, himself, went to Dublin for the purpose of adjusting their differences, but he returned to London with a heavy heart, believing that nothing could prevent civil war in his country. The German people knew that situation equally as well as King George, for they had their spies everywhere for the express purpose of reporting to the German Emperor the conditions in all European countries in order that he might choose the most favorable time to strike a crushing blow. So he felt that, so far as England was concerned, his army could rush into France and England would be powerless to hinder.

AND HOW ABOUT RUSSIA.

Have we not all been reading the letters that recently passed between "Willie and Nickie"? William, a haughty, a dictatorial, a domineering despot, of unflinching determination; "Nickie", a weakling shut up in his palace, fearful of intrigue within, fearful of assassination without. William even then filled Russia with his spies and with his emissaries, so that the present appalling situation in Russia is the direct result of the preparations of the German crown against this very day of war soon to come.

What was the situation in France when this appalling catastrophe burst upon the world? That government had a debt of six billion dollars piled up against her; thirty-eight million people trying to keep up as big an army as Germany with seventy million. She kept her soldiers away from the border, so as to prevent any excuse for war on the part of her powerful neighbor, but the German soldiers frequently went over the border hoping to invite war. This was the situation with the three nations when war began. The Emperor knew that the time had come for him to begin war on France, believing that England could not enter the conflict and that he held Russia in his mighty grasp.

He induced Austria to pick a quarrel with Servia about almost nothing, and then in that mad delirium, in that wild intoxication that comes from vast power with no obstacles, wave upon wave, the German army rolled down through Belgium into sunny France, and had it not been that little Belgium rose up contrary to all expectations of the Germans, doubtless those troops would have swept into Paris, doubtless they would have forced with France a special treaty, and then the world would have been compelled at some future time to fight out these great doctrines with the imperial power of Germany.

Therefore, my friends, we can not too highly honor the bravery and laud the courage of the suffering people of bleeding and prostrate Belgium for she saved the world and she saved us from an appalling future. The nations of the world, aghast at this unspeakable tragedy, rose up in their wrath and demanded of Germany, "What right have you to invade Belgian territory? You have a sacred treaty with her, you have a ratified compact with the civilized nations of the earth, to keep out of her territory." But Germany, with fine disdain, only answered, "Pooh! What is a treaty? It is just a scrap of paper." Think of the unutterable infamy of such a sentiment! Why, your contract is only a scrap

of paper; your note is just a scrap of paper; a government bond is merely a scrap of paper, and yet all the personal honor and all the national virtue are behind just such scraps of paper.

What is the full significance of this conduct? Simply that the giant has the right to be a giant, to act like a giant, and to use the giant's power, simply because he is a giant. He has the right to use force because his very might gives him that right. Mutual duties, mutual obligations, mutual rights, find no place in this philosophy. Fine sentimentality and humanitarian principles play no part in this scheme of things, while the ideal of fraternity is mentioned but to be mocked by those who believe in this materialistic concept.

The writers, poets, philosophers and teachers of Germany, ever since the days of Nietzsche, have been seeking to develop the nation founded upon those perverted ideas of might and power. In other words, the fundamental principle of their doctrine is the Darwinian theory of the survival of the fittest. The fittest will survive because the fittest ought to survive. Germany, being the strongest, is the fittest to survive, and, therefore, will survive, and everything else must make way for the might of this warring people. Back of that doctrine is man-power and money-power hitherto undreamed of in the world, and that is precisely what they are all fighting for over there on the blood-stained slopes of Europe. World autocracy, world-wide empire under the Kaiser, all dominated by the doctrine that might makes right, and that Germany is right because of her might.

THE KAISER'S DOCTRINE.

In an address delivered by the present Emperor at the time he was crowned, he startled the civilized world by this language: "We Hohenzollerns take our crown from God alone. On me the spirit of God has descended. Who opposes me I shall crush."

And on another occasion, in an address delivered at Koenigsberg, he showed his contempt for the people, he expressed his belief in his divine right and in the equally divine right of his predecessors by this brutal expression of his power: "Here it was that the Great Elector by his own right, created himself the Sovereign Duke in Prussia. Here his son crowned himself as King; and the Sovereign House of Brandenburg thus became one of the European powers; and here my grandfather, again by his own right, set the Prussian crown upon his head, once more distinctly emphasizing the fact that it was accorded him by the will of God alone, and not by Parliament, or by any assemblage of the people, or by popular vote, and that he thus looked upon himself as the chosen instrument of Heaven, and as such performed his duties as Regent and Sovereign."

Think of a doctrine of that kind, and then, on the other hand, think of liberty, equality, fraternity, and you can not fail to catch the vast significance of the ideals battling for supremacy on the bloody fields of Europe.

Now, gentlemen, these ideas are not confined to just a few of the aristocracy in Germany. Thousands of her greatest teachers and preachers and editors and statesmen have echoed and re-echoed these doctrines all along the line of her past. Every generation of her youth has been inoculated in school and college and university, and through the columns of the public press, with these

ideas of might and inspired by the all-consuming thought of world-wide dominion for the people of their land. This is ever the philosophy taught in their school books, preached from their pulpits, praised in their lecture rooms, advocated in their press, and everywhere upheld by their people. All are animated by these doctrines of imperial might and brutal militarism, and these are the ideas we are fighting in Europe, and that is why the German army is so merciless and so ruthless in its methods, why it so outrages all the sentiments of humanity wherever it marches on its mission of blood.

The German people think that they are the chosen instrument of God Almighty to carry out on earth their idea of Kultur, and Kultur means the greatest development of the individual by science, philosophy, literature, poetry—all the fine things of life, the development of the unit to add to the power of the aggregate, and that that power, as represented in the German government, shall finally rule the world because it is strong and has the right to rule.

It is a brutal doctrine. It has no regard for the rights of others. It preaches that international law is but a scrap of paper, sets aside humanitarian principles, thinks only of absolute world power under the dominion of the Emperor. And that is precisely the doctrine that we are fighting now, that has made itself so all-powerful in Germany and that is making itself so dangerous and so deadly in this, the titanic conflict of all history.

THE SITUATION.

Gentlemen, it is too late to contend that we ought not be in this war; it is sufficient for us to know that we are in. (Applause.) I shall not argue as to the past; I shall not discuss the causes that impelled us; as patriots it is enough for us to realize that we are in this death grapple with the mightiest military power of the earth. It is enough for us to know that all the back doors are locked, that all the rear passages are closed and that the only way out for this republic is the forward way. (Applause.) For us this is a war of self defense, and, inasmuch as Germany has assaulted us and invaded our sovereign rights, we have the right to follow her up; we have a right to crush her military power; we have the right to completely disarm her; we have the right to place her in the position where she can never again commit the outrages she has perpetrated against our commerce and our people in the days gone by. And that is why we are in this war. (Applause.)

We did not enter upon this war to rearrange the boundary lines of the nations of Europe; we did not plunge into this conflict in order to rewrite the map of that continent; we went into it to vindicate our rights and avenge our wrongs.

Now that we are in, we must of course stand by our allies until their just rights are vindicated and their great wrongs are avenged, and we are mobilizing our resources in their defense because by so doing we aid our cause by aiding theirs.

Why do we help France? Because that helps us. Why do we aid Italy? Because that aids us. Why do we pray for the resuscitation of Russia? For one reason, because it helps us. Primarily, we are not fighting for Italy, we are fighting for America, and Italy is helping us achieve our victory. That is the object of it all and I believe that that is the American viewpoint.

THE PHILOSOPHY OF WAR.

I know that in many of its aspects war is always bad. I realize that war calamity ever is, but I am not insensible to the historic fact that there are worse calamities. Progress is the child of strife. Her pathway down the centuries has been marked by blood and many of her greatest strides have been gory revolutions. It must be remembered that cost is not the final criterion against what is best in this world, and we must not forget either that pain is a by-product in the process of development.

The wars waged by this country have not been bad, but, on the contrary, they have been waged for principle and our eternal glory. The continuance of England's domination in this country would have been more disastrous than the revolution. Unending human slavery in this republic would have been more appalling than the Civil War. The continued reign of Spain in this hemisphere would have been more calamitous than any conflict. Our wars have been methods of advancement and development, and because of them our country has assumed an imperial place among the nations of the world, realizing as they all do that our sole aims are justice and righteousness.

In this great crisis, in this hour of supreme endeavor, let us be encouraged by the reflections that we are fighting along the lines of evolution, of development, of growth, struggling for the maintenance of our own rights and for the freedom of the sons of men. (Applause.)

Now, if I had the time, I would discuss some of the constitutional questions that will confront us after this war shall have closed. (Cries of "Go on, go on.") No, I must not go on, but listen to me, please, just a moment more.

The real test as to the perpetuity of our institutions will not come during this war, but after it. The very fury and momentum of war will carry us through this conflict. The people are gradually rallying to the support of the army and the flag. We are determined to march through and we will march through on the highway of honor. The valleys of France may be filled with the bones of our bravest and our best; the hills of Italy may be gullied by the blood of our finest and noblest; the sod upon either side of the pathway will be soaked with the blood of our sacred dead; the badge of mourning will be found upon many homes throughout the land; but after all we will tread the solemn aisle of pain inspired by the traditions of the past and beckoned by the hopes of the future.

PEACE PROBLEMS.

But when this war shall have ceased, these very powers that we have been compelled to bestow upon the executive in order to make this war successful, will overwhelm us, unless we guard well our liberty. Without this care, these powers will be projected into the time of peace, and, be it said to their discredit, there are men in this government who are using the war as a disguise to obtain this very power to be used in the days of peace.

In my judgment, we went to greater lengths than we should in granting autocratic powers to the government before the time of war. We now have a government-owned railroad in Alaska; a government-owned armor plate plant; a government-owned nitrate

plant; a government-owned merchant marine, and we are about to embark upon a policy of government insurance. Right and proper it is that we should do this for the soldiers, but does that mean that in the future the government is to embark upon a policy of insurance for many classes of its citizens?

I am opposed to that kind of government. I am opposed to the government ownership of anything that can be successfully managed by either one or more of the citizens of the nation, and, under our Constitution and form of government, I am opposed to the government usurping the functions of the individual citizen, or entering his sphere of right and liberty and seizing for itself the power that belongs to him. (Applause.)

Let me call your attention to the further fact that we have established a Food Dictatorship. I voted for it because I believed it would be necessary as a war measure, but I am unalterably opposed to it in a time of peace. As a war measure we have established a Coal Dictatorship, but I am opposed to bestowing this power upon any man in the days of peace. We have gone as far in establishing a Press Censorship as is safe in our form of government and for our kind of constitution. We did not create a Press Censorship outright. We voted against it once and we voted against it twice, but later on such a provision was slipped into the conference report on the Trading with the Enemy Bill, which was not in the House Bill or in the Senate Bill. It was wholly a creature of the Conference Committee. I did not vote for it; five of us did not vote for it. I do not believe that such power is essential to win this war.

Gentlemen, I unwaveringly believe in giving the President of the United States and the administration every power that is necessary to succeed in this conflict. I do not care what it is. I do not care to what lengths it goes if it be necessary to win the war. The Constitution will take care of itself, because under it we have the right to win this war, but I do not think that many of the things that have been asked and bestowed are essential to win this war. I am willing to go as far as any man to succeed in this conflict; I will vote any grant of power; I will make any concession where I have any authority that will bring victory to the flag, but there is where I draw the line. There are some things that are not essential to win this war, and they become exceedingly dangerous, not indeed, in the time of war but in the time of peace, if they are to be continued after the conclusion of the conflict.

Gentlemen, the government ownership of railroads in the United States, the government ownership of the telegraph and telephone lines, the government ownership of express companies, adding three and one-half million more men to the government payroll than we now have, with the constantly increasing power of the administration, might establish a bureaucracy in the United States that would be dangerous to the liberty of the people, or might even perpetuate a President for life, if he saw fit to use the mighty power placed in his hand, and I am opposed to such authority being exercised by any man of any political belief under our form of government. (Applause.)

MUST FIGHT ON.

But we are sometimes asked, "Why do we not quit now? Why can we not withdraw from further participation in this conflict? What is the use of our further plunging into this maelstrom, and why can we not make a satisfactory peace for ourselves?"

Gentlemen, if we were this day to abandon this conflict, in my judgment we would be of all people in the long run the most miserable. Suppose we were to quit, what would happen to us? Why, we know that Germany would conquer the allies. They had it about done when we got in with our millions and our billions. We know that she would take possession of the English navy. We know that she would sweep our commerce from the seas. We know that she would entrench herself in willing Mexico and in unwilling Canada, bled white by this awful war. We know that we would have no further freedom of the seas for our property, for our flag, for our vessels, for our citizens. We know that she would levy a tribute on our ports greater than the cost of this war, whatever it may be, just as German leaders have said. We know that she would take possession of the southern part of South America. And we must know that this would be a most uncomfortable world in which to live for generations to come. We would be compelled to enter upon a system of military preparedness on a mighty scale. We would have to mobilize our resources to prepare for the inevitable conflict. The only course left us is to win this war. It is too late to inquire about whether or not we might have kept out. We are in. It is no time to discuss politics. We have now this one supreme thing to do, and that is to conquer Germany and to bring her to her knees, and that we propose to do.

Gentlemen, I am happy in the belief that the flag is to be lifted to a greater height than ever before in the history of the world. Our fathers of '76 contended for liberty, but it was their own. The boys of '61 lifted the flag a little higher. They, too, contended for liberty, but it was for the liberty of a race in their own land and under their own flag. The boys of 1898 lifted the flag a little higher. They contended for the liberty of a single people across the sea and under a strange flag.

And now the boys of 1917, catching the inspiration of all our mighty past, will lift our flag to the greatest height in which it can ever wave. For in this conflict they are contending for the liberty of all peoples, in all lands, and under all flags.

And when the acrid smoke of battle shall have drifted from the battlefield; when all the flags shall have been furled and brought back home, it will be found that our Starry Banner has been placed by the nations of the earth above all other flags; for it represents the great republic that took no thought of cost when it plunged into this mighty conflict for the final overthrow of autocracy, the final triumph of democracy and the supreme reign of liberty, equality and fraternity among the people of the earth.

REPORT OF PROCEEDINGS

OF THE

SPECIAL MEETING

OF THE

MISSOURI BAR ASSOCIATION

HELD AT

ST. LOUIS, MISSOURI
DECEMBER 28th, 1917

A special meeting of the Missouri Bar Association was held in the United States District Court Room at St. Louis on December 28th, 1917, pursuant to call of the President, for the purpose of considering the amendment and revision of the Constitution and By-Laws of the Association.

The meeting was called to order by Mr. James C. Jones, President, at 10 a. m.

An amended Constitution and amended By-Laws were submitted to the meeting, and, upon motion duly made and seconded, each article of the Constitution and each section of the By-Laws was separately discussed and voted upon, resulting in the adoption of the Constitution and By-Laws printed on pages ... to ..., inclusive, of this volume.

The President then called for a report of the General Council, which, through Hon. R. T. Railey, reported that the Committee of the General Council had acted favorably upon the following applications for membership:

D. D. Reeves	Albany, Missouri
Clark McColl	Westboro, Missouri
M. E. Ford	Maryville, Missouri
W. J. Boyd	St. Joseph, Missouri

W. W. Watkins.....St. Joseph, Missouri
P. W. Watkins.....St. Joseph, Missouri
Joseph Morton .....St. Joseph, Missouri
Montague Lyon .....St. Louis, Missouri
Warwick M. Hough.....St. Louis, Missouri
Edward A. Haid.....St. Louis, Missouri
Eugene H. Angert.....St. Louis, Missouri
Lionel Davis .....Fayette, Missouri
Paul P. Prosser.....Fayette, Missouri
J. F. Culler.....Palmyra, Missouri
Ben F. Glahn.....Palmyra, Missouri
Henry C. Wallace.....Lexington, Missouri
T. H. Harvey.....Marshall, Missouri
Frank J. Duvall.....Clarksville, Missouri
John L. Burns.....Troy, Missouri
Stuart L. Clark.....Van Buren, Missouri
J. L. Fort.....Dexter, Missouri
Caspar M. Edwards.....Malden, Missouri
Jerry B. Burks.....Farmington, Missouri
Alvin J. Smith.....Adrian, Missouri
H. C. Kottwitz.....Bland, Missouri
Joseph B. Stacey.....Kansas City, Missouri
W. R. Waltner.....Kansas City, Missouri
James B. Nourse.....Kansas City, Missouri

Upon motion, duly made and seconded, the report of the Committee of the Council was received, and each of the gentlemen named was elected a member of the Association.

Upon motion, duly made and seconded, the following resolution was adopted:

RESOLVED, That the President of this Association appoint a committee of five members of the Bar of this State, who shall consider and report at the next meeting of this Association ways and means of submitting to the voters, at the next general election, by initiative petition or by joint resolution of the General Assembly, practicable and acceptable amendments to the State Constitution, designed to relieve the present congested condition of the dockets of the Supreme Court and of the St. Louis Court of Appeals and to insure to the people of this State the administration of justice without "denial or delay".

Upon motion, duly made and seconded, the following resolution was adopted:

WHEREAS, It is the unanimous sentiment of the Bar Association of Missouri that the United States was and is fully justified in declaring and waging war against the Imperial German Government and engaging in the present world struggle for the supremacy of freedom and democracy against militarism and autocracy; that subsequent events have demonstrated beyond a doubt to every liberty-loving and patriotic American the wisdom of our country's choice and the righteousness of the objects for which we are fighting; and that America is thrice armed in that her cause is just;

THEREFORE, The Missouri Bar Association declares its absolute and unqualified loyalty to the Government of the United States.

We are convinced that the future freedom and security of our country depends upon the defeat of German military power in the present war.

We urge the most vigorous possible prosecution of the war with all the strength of men and materials and money which the country can supply.

We stand for the right and justice of the National Government in this crisis in commandeering, controlling and using whatever is necessary of the material resources of our country and to call into military service every able-bodied man in waging a righteous war; the speedy dispatch of the American army, however raised, to the battle-front in Europe, where the armed enemies of our country can be found and fought and where our own territory can be best defended.

We condemn all attempts in Congress and out of it to hinder and embarrass the Government of the United States in carrying on the war with rigor and effectiveness.

Under whatever cover of pacificism or technicality such attempts are made, we deem them to be in spirit pro-German and in effect giving aid and comfort to the enemy.

Upon motion, duly made and seconded, the following resolution was unanimously adopted:

RESOLVED, That the President be authorized and directed to appoint a War Committee of the Missouri Bar Association, consisting of such number of persons as he may deem advisable and selected from such part of the State as he may deem advisable and having such powers as he may think appropriate, such committee to be composed, whenever practicable, of members of the Missouri Bar Association.

There being no further business, the meeting adjourned.

TREASURER'S REPORT.

September 26, 1917.

To the President and Members of the Missouri Bar Association:

Gentlemen:—The undersigned Treasurer of the Missouri Bar Association herewith presents his annual report and states his account with the Association, as follows:

A. Stanford Lyon, Treasurer, in account with Missouri Bar Association.

DEBIT.

September 25, 1916.	To cash, balance on hand deposited at Commerce Trust Company	$1,632.12
September 30, 1916, to August 31, 1917.	To cash, interest earned on current funds on deposit at Commerce Trust Company	26.37
October 17, 1916.	To cash, overpayment to Inland Printing and Binding Company	16.00
October 21, 1916.	To cash, protest fees	2.50
April 19, 1917.	To cash, check from A. A. Whitsett, copies of 1916 Proceedings	2.00
September 25, 1916, to September 25, 1917.	To cash, annual membership dues collected, both current and delinquent, and first year's dues from 57 members	3,384.00
September 31, 1916.	To cash, dues collected at 1916 meeting	819.00
		$5,881.99

CREDIT.

October 2, 1916, to September 25, 1917.	By cash, A. S. Lyon, for stamps for mailing statements and correspondence of Association	$ 64.25
October 2, 1916.	By cash, Frank McDavid, expenses incurred at 1916 meeting at St. Louis, Mo.	61.50
October 4, 1916.	By cash, A. Stanford Lyon, expenses incurred at 1916 meeting at St. Louis, Mo.	21.76
October 4, 1916.	By cash, Mercantile Club, 1916 banquet	748.90
October 4, 1916.	By cash, George H. Daniel, expenses incurred at 1916 meeting, including telegrams, messenger, long distance calls, etc.	58.40
October 4, 1916.	By cash, Planters Hotel, expenses incurred at 1916 meeting, by A. S. Lyon, H. D. Clayton and wife, F. M. McDavid, Geo. H. Daniel	61.20
October 4, 1916.	By cash, World's Fair Sign Co., for sign at 1916 meeting	6.25
October 4, 1916.	By cash, Hotel Jefferson, expenses of J. F. Phillip	8.80

October 4, 1916.	By cash, Inland Printing and Binding Company, letterheads and envelopes...	45.25
October 4, 1916.	By cash, Buxton & Skinner, 600 printed programs	15.00
October 9, 1916.	By cash, A. T. Welborn, overpayment of dues	5.00
October 9, 1916.	By cash, Inland Printing and Binding Company, letterheads and envelopes...	16.00
October 10, 1916.	By cash, Stewart Scott Printing Company, 350 menus.....	121.89
October 10, 1916.	By cash, Herbert Harley, expenses incurred at 1916 meeting.....	17.25
October 11, 1916.	By cash, Mercantile Club, balance of banquet bill	72.50
October 16, 1916.	By cash, Inland Printing and Binding Company, letterheads and envelopes...	30.00
October 20, 1916.	By cash, H. D. Clayton, expenses incurred at 1916 meeting.....	42.56
November 10, 1916.	By cash, George H. Daniel, protest fees	2.50
November 10, 1916.	By cash, Frank E. Park Printing Company, filing cards.....	.50
November 11, 1916.	By cash, Howard B. Lang, transcript of proceedings of meeting and expenses	82.75
November 15, 1916.	By cash, Everett Paul Griffin, overpayment of dues.....	2.50
November 2^ 1916.	By cash, George Daniel, expenses incurred at Executive Committee in Kansas City	15.70
November 22, 1916.	By cash, John Holliday, overpayment of dues	2.50
November 28, 1916, to September 8, 1917.	By cash, Ruth Challinor, stenographic work from November 1, 1916, to September 8, 1917.....	55.00
December 5, 1916.	By cash, Robert Lamar, expenses incurred at meeting of Executive Committee	12.25
December 6, 1916.	By cash, Brown-Pruess Stationery Company, 150 envelopes.....	1.90
December 6, 1916.	By cash, Dell Dutton, 2,000 two-cent envelopes	42.75
December 8, 1916.	By cash, Brown-Pruess Stationery Company, 150 envelopes.....	1.90
December 11, 1916.	By cash, E. L. Mendenhall, printing and binding 300 copies of Acts recommended by Missouri State Bar Association	95.00
December 11, 1916.	By cash, Ripley & Lee, stenographic work on November 22nd, 23rd and 29th	7.85
December 14, 1916.	By cash, Jas. Harkless, stamps.....	10.00
December 26, 1916.	By cash, Smith-Grieves Typesetting Company, 2,000 letterheads.....	9.00
December 29, 1916.	By cash, Jas. Harkless, stamps.....	5.00

December 30, 1916.	By cash, Jas. H. Harkless, expenses incurred at meeting of Legislative Committee at Jefferson City.....	20.20
January 8, 1917.	By cash, E. A. Alford, expenses incurred at Jefferson City, Legislative Committee	16.67
January 8, 1917.	By cash, Ripley & Lee, stenographic work on December 5 and 29, 1916.....	5.25
January 9, 1917.	By cash, Charles H. Wolf, stenographic work	.80
January 9, 1917.	By cash, George H. Daniel, postage...	4.00
January 15, 1917.	By cash, W. H. H. Piatt, expenses incurred at meeting of Legislative Committee at Jefferson City.....	6.32
January 15, 1917.	By cash, George H. Daniel, expenses attending to matters in Kansas City..	20.00
January 24, 1917.	By cash, Smith-Grieves Typesetting Company, 250 Missouri Bar Placards..	10.75
January 24, 1917.	By cash, Smith-Grieves Typesetting Company, 200 envelopes.....	6.00
January 25, 1917.	By cash, Bessie A. Knox, stenographic work for F. M. McDavid and George H. Daniel	39.36
January 27, 1917.	By cash, A. S. Lyon, expenses in attending meeting at Jefferson City, January 26, 1917.....	13.50
February 6, 1917.	By cash, Western Union Telegraph Company	1.06
February 8, 1917.	By cash, E. L. Alford, expenses incurred in attending hearing before House Committee at Jefferson City, January 26, 1917.....	16.92
February 13, 1917.	By cash, Hugo Muench, expenses for two trips to Jefferson City in attending meeting in charge of Code Revision Bills	17.00
February 19, 1917.	By cash, Ripley & Lee, stenographic work on January 12th, 15th, 16th, 18th, 29th and 31st.....	9.80
March 27, 1917.	By cash, David H. Harriss, expenses incurred in four trips to Jefferson City to attend Legislative Committee meeting	24.25
March 30, 1917.	By cash, Smith-Grieves, stamps for sending out annual book.....	13.00
April 2, 1917.	By cash, Smith-Grieves, postage for annual book	47.81
April 10, 1917.	By cash, Ripley & Lee, addressing 818 pink slips	2.25
April 12, 1917.	By cash, Smith-Grieves Typesetting Company, labeling and shipping boxes, printing books and mailing 100 copies to Fr. M. McDavid.....	984.06

April 14, 1917.	By cash, James C. Jones, expenses of trip to Jefferson City.....	5.25
April 25, 1917.	By cash, Frank E. Park Printing Company, 300 application blanks.....	3.75
June 2, 1917.	By cash, Smith-Grieves Typesetting Company, 1000 labels.....	5.75
June 16, 1917.	By cash, George H. Daniel, expenses incurred at Executive Committee meeting	22.00
June 16, 1917.	By cash, George H. Daniel, postage from April 12 to June 14, 1917.....	2.10
July 3, 1917.	By cash, E. M. Ripley, stenographic services during month of June.....	1.95
July 13, 1917.	By cash, Charles W. German, expenses in two trips to St. Joseph.....	5.40
August 29, 1917.	By cash, Frank E. Park Printing Company, 5 receipt books.....	4.25
July 19, 1917.	By cash, F. E. Park Ptg. Co., 1,000 Bifold envelopes	8.50
September 12, 1917.	By cash, James H. O'Neal Company, 800 name plates	88.00
September 17, 1917.	By cash, Dell D. Dutton, postage for mailing out programs and pamphlets for 1917 meeting.....	40.00
September 21, 1917.	By cash, Smith-Grieves Typesetting Company, for programs and pamphlets sent out to members.....	62.50
		$3,252.03
September 25, 1917.	Balance on hand.....	2,629.96
	Total Credits	$5,881.99

The Association has no debts other than those incurred at this meeting and all bills presented to this date, with the above exceptions, have been paid, all of which bills receipted by the payees, are filed by the undersigned as his vouchers, together with the canceled checks for same.

Respectfully submitted,
A. STANFORD LYON, Treasurer.

CANONS OF ETHICS OF THE AMERICAN BAR ASSOCIATION.

[NOTE.—The following Canons of Professional Ethics were adopted by the American Bar Association at its thirty-first annual meeting at Seattle, Washington, on August 27, 1908.]

I.

PREAMBLE.

In America, where the stability of courts and of all departments of government rests upon the approval of the people, it is peculiarly essential that the system for establishing and dispensing justice be developed to a high point of efficiency and so maintained that the public shall have absolute confidence in the integrity and impartiality of its administration. The future of the republic, to a great extent, depends upon our maintenance of justice pure and unsullied. It can not be so maintained unless the conduct and the motives of the members of our profession are such as to merit the approval of all just men.

II.

THE CANONS OF ETHICS.

No code or set of rules can be framed which will particularize all the duties of the lawyer in the varying phases of litigation or in all the relations of professional life. The following canons of ethics are adopted by the American Bar Association as a general guide, yet the numeration of particular duties should not be construed as a denial of the existence of others equally imperative, though not specifically mentioned:

1. *The Duty of the Lawyer to the Courts.*—It is the duty of the lawyer to maintain towards the Courts a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance. Judges, not being wholly free to defend themselves, are peculiarly entitled to receive the support of the Bar against unjust criticism and clamor,

Whenever there is proper ground for serious complaint of a judicial officer, it is the right and duty of the lawyer to submit his grievances to the proper authorities. In such cases, but not otherwise, such charges should be encouraged and the person making them should be protected.

2. *The Selection of Judges.*—It is the duty of the Bar to endeavor to prevent political considerations from outweighing judicial fitness in the selection of Judges. It should protest earnestly and actively against the appointment or election of those who are unsuitable for the Bench; and it should strive to have elevated thereto only those willing to forego other employments, whether of a business, political or other character, which may embarrass their free and fair consideration of questions before them for decision. The aspiration of lawyers for judicial position should be governed by an impartial estimate of their ability to add honor to the office and not by a desire for the distinction the position may bring to themselves.

3. *Attempts to Exert Personal Influence on the Court.*—Marked attention and unusual hospitality on the part of a lawyer to a Judge, uncalled for by the personal relations of the parties, subject both the Judge and the lawyer to misconstruction of motive and should be avoided. A lawyer should not communicate or argue privately with the Judge as to the merits of a pending cause, and he deserves rebuke and denunciation for any device or attempt to gain from a Judge special personal consideration or favor. A self-respecting independence in the discharge of professional duty, without denial or diminution of the courtesy and respect due the Judge's station, is the only proper foundation for cordial personal and official relations between Bench and Bar.

4. *When Counsel for an Indigent Prisoner.*—A lawyer assigned as counsel for an indigent prisoner ought not to ask to be excused for any trivial reason, and should always exert his best efforts in his behalf.

5. *The Defense or Prosecution of Those Accused of Crime.*—It is the right of the lawyer to undertake the defense of a person accused of crime, regardless of his personal opinion as to the guilt of the accused; otherwise innocent persons, victims only of suspicious circumstances, might be denied proper defense. Having undertaken such defense, the lawyer is bound by all fair and honorable means to present every defense that the law of the land permits, to the end that no person may be deprived of life or liberty, but by due process of law.

The primary duty of a lawyer engaged in public prosecution is not to convict, but to see that justice is done. The suppression of facts or the secreting of witnesses capable of establishing the innocence of the accused is highly reprehensible.

6. *Adverse Influences and conflicting Interests.*—It is the duty of a lawyer at the time of retainer to disclose to the client all the circumstances of his relations to the parties, and any interest in or connection with the controversy, which might influence the client in the selection of counsel.

It is unprofessional to represent conflicting interests except by express consent of all concerned given after a full disclosure of the facts. Within the meaning of this canon a lawyer represents conflicting interests when, in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose.

The obligation to represent the client with undivided fidelity

and not to divulge his secrets or confidences forbids also the subsequent acceptance of retainers or employment from others in matters adversely affecting any interests of the client with respect to which confidence has been reposed.

7. *Professional Colleagues and Conflicts of Opinion.*—A client's proffer of assistance of additional counsel should not be regarded as evidence of want of confidence, but the matter should be left to the determination of the client. A lawyer should decline association as colleague if it is objectionable to the original counsel, but if the lawyer first retained is relieved, another may come into the case.

When lawyers jointly associated in a cause can not agree as to any matter vital to the interest of the client the conflict of opinion should be frankly stated to him for his final determination. His decision should be accepted unless the nature of the difference makes it impracticable for the lawyer whose judgment has been overruled to co-operate effectively. In this event it is his duty to ask the client to relieve him.

Efforts, direct or indirect, in any way to encroach upon the business of another lawyer are unworthy of those who should be brethren at the Bar; but nevertheless, it is the right of any lawyer, without fear or favor, to give proper advice to those seeking relief against unfaithful or neglectful counsel, generally after communication with the lawyer of whom the complaint is made.

8. *Advising Upon the Merits of a Client's Cause.*—A lawyer should endeavor to obtain full knowledge of his client's cause before advising thereon, and he is bound to give a candid opinion of the merits and probable result of pending or contemplated litigation. The miscarriages to which justice is subject, by reason of surprises and disappointments in evidence and witnesses, and through mistakes of juries and errors of Courts, even though only occasional, admonish lawyers to beware of bold and confident assurances to clients, especially where the employment may depend upon such assurance. Whenever the controversy will admit of fair adjustment, the client should be advised to avoid or to end the litigation.

9. *Negotiations with Opposite Party.*—A lawyer should not in any way communicate upon the subject of controversy with a party represented by counsel; much less should he undertake to negotiate or compromise the matter with him, but should deal only with his counsel. It is incumbent upon the lawyer most particularly to avoid everything that may tend to mislead a party not represented by counsel, and he should not undertake to advise him as to the law.

10. *Acquiring Interest in Litigation.*—The lawyer should not purchase any interest in the subject matter of the litigation which he is conducting.

11. *Dealing with Trust Property.*—Money of the client or other trust property coming into the possession of the lawyer should be reported promptly, and except with the client's knowledge and consent should not be commingled with his private property or be used by him.

12. *Fixing the Amount of the Fee.*—In fixing fees. lawyers should avoid charges which overestimate their advice and services, as well as those which undervalue them. A client's ability to pay can not justify a charge in excess of the value of the service, though his poverty may require a less charge, or even none at all. The reasonable requests of brother lawyers, and of their widows and orphans

without ample means, should receive special and kindly consideration.

In determining the amount of the fee, it is proper to consider: (1) the time and labor required, the novelty and difficulty of the questions involved and the skill requisite properly to conduct the cause; (2) whether the acceptance of employment in the particular case will preclude the lawyer's appearance for other cases likely to arise out of the transaction, and in which there is a reasonable expectation that otherwise he would be employed, or will involve the loss of other business while employed in the particular case or antagonisms with other clients; (3) the customary charges of the bar for similar services; (4) the amount involved in the controversy and the benefits resulting to the client from the services; (5) the contingency or the certainty of the compensation; and (6) the character of the employment, whether casual or for an established and constant client. No one of these considerations in itself is controlling. They are mere guides in ascertaining the real value of the service.

In fixing fees it should never be forgotten that the profession is a branch of the administration of justice and not a mere money-getting trade.

13. *Contingent Fees.*—Contingent Fees, where sanctioned by law, should be under the supervision of the court, in order that clients may be protected from unjust charges.

14. *Suing a Client for a Fee.*—Controversies with clients concerning compensation are to be avoided by the lawyer so far as shall be compatible with his self-respect and with his right to receive reasonable recompense for his services; and lawsuits with clients should be resorted to only to prevent injustice, imposition or fraud.

15. *How Far a Lawyer May Go in Supporting a Client's Cause.*—Nothing operates more certainly to create or to foster popular prejudice against lawyers as a class, and to deprive the profession of that full measure of public esteem and confidence which belongs to the proper discharge of its duties, than does the false claim, often set up by the unscrupulous in defense of questionable transactions, that it is the duty of the lawyer to do whatever may enable him to succeed in winning his client's cause.

It is improper for a lawyer to assert in argument his personal belief in his client's innocence or in the justice of his cause.

The lawyer owes "entire devotion to the interests of the client, warm zeal in the maintenance and defense of his rights and the exertion of his utmost learning and ability," to the end that nothing be taken or be withheld from him, save by the rules of law, legally applied. No fear of judicial disfavor or public unpopularity should restrain him from the full discharge of his duty. In the judicial forum the client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land, and he may expect his lawyer to assert every such remedy or defense. But it is steadfastly to be borne in mind that the great trust of the lawyer is to be performed within and not without the bounds of the law. The office of attorney does not permit, much less does it demand of him for any client, violation of law or any manner of fraud or chicane. He must obey his own conscience and not that of his client.

16. *Restraining Clients from Improprieties.*—A lawyer should use his best efforts to restrain and to prevent his clients from doing

those things which the lawyer himself ought not to do, particularly with reference to their conduct towards courts, judicial officers, jurors, witnesses and suitors. If a client persists in such wrongdoing the lawyer should terminate their relation.

17. *Ill-Feeling and Personalities Between Advocates.*—Clients, not lawyers, are the litigants. Whatever may be the ill-feeling existing between clients, it should not be allowed to influence counsel in their conduct and demeanor toward each other or toward suitors in the case. All personalities between counsel should be scrupulously avoided. In the trial of a cause it is indecent to allude to the personal history or the personal peculiarities and idiosyncrasies of counsel on the other side. Personal colloquies between counsel which cause delay and promote unseemly wrangling should also be carefully avoided.

18. *Treatment of Witnesses and Litigants.*—A lawyer should always treat adverse witnesses and suitors with fairness and due consideration, and he should never minister to the malevolence or prejudices of a client in the trial or conduct of a cause. The client can not be made the keeper of the lawyer's conscience in professional matters. He has no right to demand that his counsel shall abuse the opposite party or indulge in offensive personalities. Improper speech is not excusable on the ground that it is what the client would say if speaking in his own behalf.

19. *Appearance of Lawyer as Witness for His Client.*—When a lawyer is witness for his client, except as to merely formal matters, such as the attestation or custody of an instrument and the like, he should leave the trial of the case to other counsel. Except when essential to the ends of justice, a lawyer should avoid testifying in court in behalf of his client.

20. *Newspaper Discussion of Pending Litigation.*—Newspaper publications by a lawyer as to pending or anticipated litigation may interfere with a fair trial in the courts and otherwise prejudice the due administration of justice. Generally they are to be condemned. If the extreme circumstances of a particular case justify a statement to the public, it is unprofessional to make it anonymously. An *ex parte* reference to the facts should not go beyond quotation from the records and papers on file in the court; but even in extreme cases it is better to avoid any *ex parte* statement.

21. *Punctuality and Expedition.*—It is the duty of the lawyer not only to his client, but also to the courts and to the public, to be punctual in attendance, and to be concise and direct in the trial and disposition of causes.

22. *Candor and Fairness.*—The conduct of the lawyer before the court and with other lawyers should be characterized by candor and fairness.

It is not candid or fair for the lawyer knowingly to misquote the contents of a paper, the testimony of a witness, the language or the argument of opposing counsel, or the language of a decision or a text-book; or with knowledge of its invalidity, to cite as authority a decision that has been overruled, or a statute that has been repealed; or in argument to assert as a fact that which has not been proved, or in those jurisdictions where a side has the opening and closing arguments to mislead his opponent by concealing or withholding positions in his opening argument upon which his side then intends to rely.

It is unprofessional and dishonorable to deal other than candidly with the facts in taking the statements of witnesses, in draw-

ing affidavits and other documents, and in the presentation of causes.

A lawyer should not offer evidence, which he knows the court should reject, in order to get the same before the jury by argument for its admissibility, nor should he address to the judge arguments upon any point not properly calling for determination by him. Neither should he introduce into an argument, addressed to the court, remarks or statements intended to influence the jury or bystanders.

These and all kindred practices are unprofessional and unworthy of an officer of the law charged, as is the lawyer, with the duty of aiding in the administration of justice.

23. *Attitude Toward Jury.*—All attempts to curry favor with juries by fawning, flattery or pretended solicitude for their personal comfort are unprofessional. Suggestions of counsel, looking to the comfort or convenience of jurors, and propositions to dispense with argument, should be made to the court out of the jury's hearing. A lawyer must never converse privately with jurors about the case; and both before and during the trial he should avoid communicating with them, even as to matters foreign to the cause.

24. *Right of Lawyer to Control the Incidents of the Trial.*—As to incidental matters pending the trial, not affecting the merits of the cause, or working substantial prejudice to the rights of the client, such as forcing the opposite lawyer to trial when he is under affliction or bereavement; forcing the trial on a particular day to the injury of the opposite lawyer when no harm will result from a trial at a different time; agreeing to an extension of time for signing a bill of exceptions, cross interrogatories and the like, the lawyer must be allowed to judge. In such matters no client has a right to demand that his counsel shall be illiberal, or that he do anything therein repugnant to his own sense of honor and propriety.

25. *Taking Technical Advantage of Opposite Counsel; Agreements with Him.*—A lawyer should not ignore known customs or practice of the bar or of a particular court, even when the law permits, without giving timely notice to the opposing counsel. As far as possible, important agreements, affecting the rights of clients, should be reduced to writing; but it is dishonorable to avoid performance of an agreement fairly made because it is not reduced to writing, as required by rules of court.

26. *Professional Advocacy Other Than Before Courts.*—A lawyer openly, and in his true character may render professional services before legislative or other bodies, regarding proposed legislation and in advocacy of claims before departments of government, upon the same principles of ethics which justify his appearance before the courts; but it is unprofessional for a lawyer so engaged to conceal his attorneyship, or to employ secret personal solicitations, or to use means other than those addressed to the reason and understanding to influence action.

27. *Advertising, Direct or Indirect.*—The most worthy and effective advertisement possible, even for a young lawyer, and especially with his brother lawyers, is the establishment of a well-merited reputation for professional capacity and fidelity to trust. This can not be forced, but must be the outcome of character and conduct. The publication or circulation of ordinary simple business cards, being a matter of personal taste or local custom, and sometimes of convenience, is not *per se* improper. But solicitations

of business by circulars or advertisements, or by personal communications or interviews, not warranted by personal relations, is unprofessional. It is equally unprofessional to procure business by indirection through touters of any kind, whether allied real estate firms or trust companies advertising to secure the drawing of deeds or wills or offering retainers in exchange for executorships or trusteeships to be influenced by the lawyer. Indirect advertisement for business by furnishing or inspiring newspaper comments concerning causes in which the lawyer has been or is engaged, or concerning the manner of their conduct, the magnitude of the interests involved, the importance of the lawyer's positions, and all other like self-laudation, defy the traditions and lower the tone of our high calling, and are intolerable.

28. *Stirring Up Litigation, Directly or Through Agents.*—It is unprofessional for a lawyer to volunteer advice to bring a lawsuit, except in rare cases where ties of blood, relationship or trust make it his duty to do so. Stirring up strife and litigation is not only unprofessional, but it is indictable at common law. It is disreputable to hunt up defects in titles or other causes of action and inform thereof in order to be employed to bring suit, or to breed litigation by seeking out those with claims for personal injuries or those having any other grounds of action in order to secure them as clients, or to employ agents or runners for like purposes, or to pay or reward, directly or indirectly, those who bring or influence the bringing of such cases to his office, or to remunerate policemen, court or prison officials, physicians, hospital attaches or others who may succeed, under the guise of giving disinterested friendly advice, in influencing the criminal, the sick and the injured, the ignorant or others, to seek his professional services. A duty to the public and to the profession devolves upon every member of the bar, having knowledge of such practices upon the part of any practitioner, immediately to inform thereof to the end that the offender may be disbarred.

29. *Upholding the Honor of the Profession.*—Lawyers should expose without fear or favor before the proper tribunals corrupt or dishonest conduct in the profession, and should accept without hesitation employment against a member of the bar who has wronged his client. The counsel upon the trial of a cause in which perjury has been committed owe it to the profession and to the public to bring the matter to the knowledge of the prosecuting authorities. The lawyer should aid in guarding the bar against admission to the profession of candidates unfit or unqualified because deficient in either moral character or education. He should strive at all times to uphold the honor and to maintain the dignity of the profession and to improve not only the law but the administration of justice.

30. *Justifiable and Unjustifiable Litigations.*—The lawyer must decline to conduct a civil cause or to make a defense when convinced that it is intended merely to harass or to injure the opposite party or to work oppression or wrong. But otherwise it is his right, and, having accepted retainer, it becomes his duty to insist upon the judgment of the court as to the legal merits of his client's claim. His appearance in court should be deemed equivalent to an assertion on his honor that in his opinion his client's case is one proper for judicial determination.

31. *Responsibility for Litigation.*—No lawyer is obliged to act either as adviser or advocate for every person who may wish to become his client. He has the right to decline employment. Every

lawyer upon his own responsibility must decide what business he will accept as counsel, what causes he will bring into court for plaintiffs, what cases he will contest in courts for defendants. The responsibility for advising questionable transactions, for bringing questionable suits, for urging questionable defenses, is the lawyer's responsibility. He can not escape it by urging as an excuse that he is only following his client's instructions.

32. *The Lawyer's Duty in Its Last Analysis.*—No client, corporate or individual, however powerful, nor any cause, civil or political, however important, is entitled to receive, nor should any lawyer render any service or advice involving disloyalty to the law whose ministers we are, or disrespect of the judicial office, which we are bound to uphold, or corruption of any person or persons exercising a public office or private trust or deception or betrayal of the public. When rendering any such improper service or advice, the lawyer invites and merits stern and just condemnation. Correspondingly, he advances the honor of his profession and the best interests of his client when he renders service or gives advice tending to impress upon the client and his undertaking exact compliance with the strictest principles of moral law. He must also observe and advise his client to observe the statute law, though until a statute shall have been construed and interpreted by competent adjudication, he is free and is entitled to advise as to its validity and as to what he conscientiously believes to be its just meaning and extent. But above all a lawyer will find his highest honor in a deserved reputation for fidelity to private trust and to public duty, as an honest man and as a patriotic and loyal citizen.

III.

OATH OF ADMISSION.

The general principles which should ever control the lawyer in the practice of his profession are clearly set forth in the following Oath of Admission to the Bar, formulated upon that in use in the State of Washington, and which conforms in its main outlines to the "duties" of lawyers as defined by statutory enactments in that and many other states of the union*—duties which they are sworn on admission to obey and for the willful violation of which disbarment is provided:

I DO SOLEMNLY SWEAR:

I will support the Constitution of the United States and the Constitution of the State of.....

I will maintain the respect due to courts of justice and judicial officers;

I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense such as I believe to be honestly debatable under the law of the land;

I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law;

I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with his business except from him or with his knowledge and approval;

I will abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

I will never reject from any consideration personal to myself the cause of the defenseless or oppressed, or delay any man's cause for lucre or malice. SO HELP ME GOD.

We recommend this form of oath for adoption by the proper authorities in all the states and territories.

---

*Alabama, California, Georgia, Idaho, Indiana, Iowa, Minnesota, Mississippi, Nebraska, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington and Wisconsin. The oaths administered on admission to the bar in all the other states require the observance of the highest moral principle in the practice of the profession, but the duties of the lawyers are not as specifically defined by law as in the states named.

LIST OF MEMBERS.

Abbey, Adolph	214 N. Sixth Street	St. Louis
Abbott, A. L.	New Bank of Commerce Bldg	St. Louis
Abington, Ed L.		Poplar Bluff
Achtenberg, Ben M.	Scarritt Bldg	Kansas City
Adams, Dorman E.		Hamilton
Adams, Ralph L.	Commerce Trust Co	Kansas City
Ailworth, R. L.	Central Nat'l Bank Bldg	St. Louis
Alexander, Henry E.		Cape Girardeau
Alford, E. L.		Perry
Allen, Arthur W.		Springfield
Allen, Clifford B.	Wainwright Bldg	St. Louis
Allen, Chas. Claflin	Boatmen's Bank Bldg	St. Louis
Allen, D. C.		Liberty
Allen, Perry T.		Springfield
Allen, Thomas B.		St. Joseph
Allen, W. H.	Pierce Bldg	St. Louis
Anderson, Norton B.		Platte City
Anderson, Roscoe	Third Nat'l Bank Bldg	St. Louis
Anderson, Thos. L.	Central Nat'l Bank Bldg	St. Louis
Andrews, Sidney F.	Title Guaranty Bldg	St. Louis
Angert, Eugene H.	Third Nat'l Bank Bldg	St. Louis
Anthony, Robert A.		Fredericktown
Arnold, Glendy B.	Third Nat'l Bank Bldg	St. Louis
Arnold, Henry L.	1017 Commerce Bldg	Kansas City
Arnold, Mercer		Joplin
Ashley, H. D.	Rialto Bldg	Kansas City
Atkinson, John M.	Boatmen's Bank Bldg	St. Louis
Atwood, Frank E.		Carrollton
Atwood, John H.	Commerce Bldg	Kansas City
Aughinbaugh, Geo. T.	Fidelity Trust Bldg	Kansas City
Aylward, James P.	Commerce Bldg	Kansas City
Baer, William	Municipal Courts Bldg	St. Louis
Bailey, John H.		Carthage
Bailey, R. E.		Sikeston
Bailey, W. E.		Carthage
Baker, J. R.		Fulton
Bakewell, Paul	LaSalle Bldg	St. Louis
Bakewell, Paul, Jr.	Fullerton Bldg	St. Louis
Ball, David A.		Louisiana
Ball, Eugene E.	1500 Grand Ave	Kansas City
Ball, R. E.	1st Nat'l Bank Bldg	Kansas City
Ballinger, Wm.	Court House	Kansas City
Banister, E. W.	Syndicate Trust Bldg	St. Louis
Barbee, Joshua		Marshall
Barbour, E. A.		Springfield
Barclay, Shepard	Commercial Bldg	St. Louis
Barker, John T.	Scarritt Bldg	Kansas City
Barnes, Clarence A.		Mexico
Barnett, James D.		Montgomery City
Barnett, Orville M.		Columbia
Baron, David	Boatmen's Bank Bldg	St. Louis
Barth, Irvin V.	Nat'l Bank of Commerce	St. Louis
Bass, S. S.	Times Bldg	St. Louis
Bass, Sigmund M.	Times Bldg	St. Louis
Bates, Chas. W.	Boatmen's Bank Bldg	St. Louis

Bates, S. W.		Webb City
Bean, Edwin J.		Jefferson City
Beardsley, Henry M.	410 Commerce Bldg.	Kansas City
Beck, Geo. F.	Rialto Bldg.	St. Louis
Berry, George V.	Attorney-General's Office.	Jefferson City
Biggs, Davis	Pierce Bldg.	St. Louis
Bird, Daniel E.	Court House.	Kansas City
Bishop, C. Orrick	Municipal Courts Bldg.	St. Louis
Bishop, John E.	Third Nat'l Bank Bldg.	St. Louis
Black, Arthur G.	606 Commerce Bldg.	Kansas City
Blackmar, Charles M.	904 Commerce Bldg.	Kansas City
Blair, Albert	Pierce Bldg.	St. Louis
Blair, D. E.		Jefferson City
Blair, H. W.		Carthage
Bland, W. J.	611 Commerce Bldg.	Kansas City
Blanton, Harry C.		Sikeston
Blanton, H. H.	1021 New York Life Bldg.	Kansas City
Blevins, John A.	Commercial Bldg.	St. Louis
Blodgett, Henry W.	Third Nat'l Bank Bldg.	St. Louis
Blodgett, Eugene	New Bank of Commerce Bldg.	St. Louis
Boisaubin, L. Vincent.	Third Nat'l Bank Bldg.	St. Louis
Bond, Samuel		Perryville
Bond, Sterling P.	Central Nat'l Bank Bldg.	St. Louis
Bond, Thomas	Central Nat'l Bank Bldg.	St. Louis
Boogher, John H.	New Bank of Commerce Bldg.	St. Louis
Boone, James A.		Charleston
Booth, George E.	423 Title Guaranty Bldg.	St. Louis
Borth, Chas. O.		Doniphan
Bothwell, J. H.	Sedalia Nat'l Bank Bldg.	Sedalia
Bowersock, Justin D.	302 Fidelity Trust Bldg.	Kansas City
Bowker, Wm. M.		Nevada
Boxley, Fred A.	Commerce Bldg.	Kansas City
Boyd, James P.		Paris
Boyd, W. J.	Corby-Forsee Bldg.	St. Joseph
Boyer, John S.		St. Joseph
Boyle, L. C.	306 Keith & Perry Bldg.	Kansas City
Boyle, Murat	1012 Grand Ave. Temple Bldg.	Kansas City
Brackmann, Amandus		Clayton
Bradley, Paul E.	1003 Republic Bldg.	Kansas City
Breuer, Ransom A.		Hermann
Brewster, Arthur T.		Piedmont
Britton, Roy F.	Boatmen's Bank Bldg.	St. Louis
Brooks, Joseph S.	1115 Commerce Bldg.	Kansas City
Brown, Addison	Woodruff Bldg.	Springfield
Brown, R. A.		St. Joseph
Brownrigg, R. T.	Central Nat'l Bank Bldg.	St. Louis
Broyer, Leon	5834 Berlin Ave.	St. Louis
Bruce, R. I.		Liberty
Brumback, Frank	607 Rialto Bldg.	Kansas City
Brumback, Herman	813 Scarritt Bldg.	Kansas City
Brunn, Chas. W.	817 Commerce Bldg.	Kansas City
Bryan, P. Taylor.	Pierce Bldg.	St. Louis
Bryan, W. Christy.	Boatmen's Bank Bldg.	St. Louis
Bryant, Geo. S., Jr.	567 Sheidley Bldg.	Kansas City
Bryant, Hughes	601 R. A. Long Bldg.	Kansas City
Bryson, Joseph M.	Railway Exchange Bldg.	St. Louis
Buchanan, A. H.		Ava

Buffington, James W.		Mexico
Burks, Jerry B.		Farmington
Burnes, Alonzo D.		Platte City
Burney, Clarence A.	Court House	Kansas City
Burnham, Frank T.	614 Dwight Bldg.	Kansas City
Burns, Alpha L.		Brookfield
Burns, Ira B.	1022 Scarritt Bldg.	Kansas City
Burns, John L.		Troy
Burns, Thos. P.		Brookfield
Busby, Wm. G.		Carrollton
Bush, Chas. M.	1115 Grand Ave. Temple Bldg.	Kansas City
Caldwell, Robert B.	731 Scarritt Bldg.	Kansas City
Calvin, W. W.	927 Scarritt Bldg.	Kansas City
Calvird, Charles A.		Clinton
Cannon, Thomas D.	Merchants-Laclede Bldg.	St. Louis
Camack, Edwin C.	1200 Gloyd Bldg.	Kansas City
Carnahan, John M.		Van Buren
Carmean, Samuel M.	1002 New York Life Bldg.	Kansas City
Carns, Theo. L.	902 New York Life Bldg.	Kansas City
Carr, James A.	Roe Bldg.	St. Louis
Carr, John C.		Cameron
Carroll, J. H.	New Bank of Commerce Bldg.	St. Louis
Case, Clarence T.	Third Nat'l Bank Bldg.	St. Louis
Casey, M. E.	910 Scarritt Bldg.	Kansas City
Cashman, John	Federal Reserve Bank Bldg.	St. Louis
Caulfield, Henry S.	Third Nat'l Bank Bldg.	St. Louis
Cave, Rhodes E.	Pierce Bldg.	St. Louis
Cave, Willard P.		Moberly
Chamier, Arthur B.		Moberly
Chandler, Albert	908 Olive St.	St. Louis
Chaplin, T. F.	Third Nat'l Bank Bldg.	St. Louis
Chapman, O. J.	918 Scarritt Bldg.	Kansas City
Chastain, DeWitt C.		Butler
Claiborne, James R.	Wainwright Bldg.	St. Louis
Clark, Albert M.		Richmond
Clark, Boyle G.		Columbia
Clark Champ		Bowling Green
Clark, H. C.		Nevada
Clark, John Abbott		Cameron
Clark, Lincoln R.	Dep't of Justice	Washington, D. C.
Clark, Stuart L.		Van Buren
Cleary, John M.	1118 Scarritt Bldg.	
Cobbs, Thos. H.	Third Nat'l Bank Bldg.	St. Louis
Cochran, Alex G.	7 Westmoreland Place	St. Louis
Cochran, Eugene R.		Kansas City
Cockrell, Ewing		Warrensburg
Coles, Walter D.	Security Bldg.	St. Louis
Collins, Chas. C.	Boatmen's Bank Bldg.	St. Louis
Coltrane, V. O.		Springfield
Comer, Chas. P.	Pierce Bldg.	St. Louis
Conkling, Newlan		Carrollton
Conrad, Henry S.	809 Scarritt Bldg.	Kansas City
Cook, William J.		Crane
Cook, W. B. M.		Montgomery City
Cooper, A. L.	524 Keith & Perry Bldg.	Kansas City
Cornwell, F. L.	LaSalle Bldg.	St. Louis
Corum, C. D.	Bank of Commerce Bldg.	St. Louis

Cox, Argus		Springfield
Coyne, R. R.		Webb City
Craven, W. A.		Excelsior Springs
Creason, Goodwin	621 New York Life Bldg.	Kansas City
Creech, B. J.		Troy
Crites, J. J.		Rolla
Crown, C. C.	Gloyd Bldg.	Kansas City
Cullen, Patrick H.	Commercial Bldg.	St. Louis
Culler, J. F.		Palmyra
Cumming, A. S.		Bethany
Cunningham, L.		Bolivar
Cunningham, S. A.		Eminence
Curlee, Francis M.	Wright Bldg.	St. Louis
Currie, Dwight D.	Third Nat'l Bank Bldg.	St. Louis
Curtin, E. J.	212 Scarritt Bldg.	Kansas City
Curtis, Edward G.	918 Security Bldg.	St. Louis
Dame, James E.	Central Nat'l Bank Bldg.	St. Louis
Daniel, Geo. H.	Woodruff Bldg.	Springfield
Daniel, J. B.		Piedmont
Daues, Chas. H.	City Hall	St. Louis
Davis, Arch B.		Chillicothe
Davis, Joseph T.	Boatmen's Bank Bldg.	St. Louis
Davis, Manton	Wright Bldg.	St. Louis
Davis, J. Lionberger	St. Louis Union Trust Co.	St. Louis
Davis, Lionel		Fayette
Davis, Samuel		Marshall
Davis, Walter Naylor	Third Nat'l Bank Bldg.	St. Louis
Dean, O. H.	Scarritt Bldg.	Kansas City
Dearmont, Russell L.		Cape Girardeau
Deatherage, B. F.	531 Scarritt Bldg.	Kansas City
Denham, D. D.	County Court House.	Kansas City
DeReign, Albert		Benton
Dickinson, C. C.	H. O. B. 423	Washington, D. C.
Dickson, Joseph R.	Third Nat'l Bank Bldg.	St. Louis
Diehm, Walter	Rialto Bldg.	St. Louis
Divelbiss, Frank P.		Potosi
Dodson, J. M.	729 Reserve Bank Bldg.	Kansas City
Dolman, John E.		St. Joseph
Donaldson, Glenn R.	308 Victor Bldg.	Kansas City
Donnell, Forrest C.	Boatmen's Bank Bldg.	St Louis
Douglas, S. C.		Kansas City
Downing, B.	731 Scarritt Bldg.	Kansas City
Draffen, W. V.		Boonville
Dudley, W. A.		Troy
Dutton, Dell D.	Commerce Bldg.	Kansas City
Dumm, A. T.		Jefferson City
Dunn, Denton	709 Scarritt Bldg.	Kansas City
Durham, L. E.	901 Republic Bldg.	Kansas City
Durst, Harry D.		Springfield
Duvall, Frank J.		Clarksville
Dyer, H. Chouteau	1530 Boatmen's Bank Bldg.	St. Louis
Dyer, L. C.	House of Representatives.	Washington, D. C.
Eaton, Hyden J.	300 Elmhurst Bldg.	Kansas City
Eaton, John A.	Elmhurst Bldg.	Kansas City
Eastin, Lucien J.		St. Joseph
Eby, David H.		Hannibal
Edmonson, Otis M.	1003 Republic Bldg.	Kansas City

Edwards, Casper M.		Malden
Edwards, Geo. L.	Bank of Commerce Bldg.	St. Louis
Edwards, Verne D.	308 New York Life Bldg.	Kansas City
Edwards, Waldo		Bevier
Egan, John G.		St. Louis
Elder, Conway	1209 Walton Ave.	St. Louis
Eldredge, H. O.		Waynesville
Eliot, Edward C.	Third Nat'l Bank Bldg.	St. Louis
Ellison, E. D.	718 Commerce Bldg.	Kansas City
English, Fred L.	LaSalle Bldg.	St. Louis
English, Geo. H., Jr.	1015 Grand Ave.	Kansas City
Esterly, B. H.		Carthage
Evans, Andrew F.	1104 Gloyd Bldg.	Kansas City
Evans, Chas. W.		Mountain Grove
Evans, W. A.		Lamar
Evans, W. F.	Frisco Bldg.	St. Louis
Evans, Wm. N.		West Plains
Ewing, Lee B.		Nevada
Ewing, Mark	Merchants-Laclede Bldg.	St. Louis
Fahey, Wm. F.	Third Nat'l Bank Bldg.	St. Louis
Fauntleroy, Thos. T.	Commercial Bldg.	St. Louis
Fenn, Bert F.	Commonwealth Trust Bldg.	St. Louis
Ferriss, Franklin	Rialto Bldg.	St. Louis
Ferriss, Henry T.	Federal Reserve Bank Bldg.	St. Louis
Fields, Percy C.	New York Life Bldg.	Kansas City
Finch, James A.		Fornfelt
Fisher, Daniel D.		St. Louis
Fizzell, Robert B.	303 Fidelity Trust	Kansas City
Flourney, W. S.		Independence
Ford, M. E.		Maryville
Fordyce, S. W., Jr.	Third Nat'l Bank Bldg.	St. Louis
Foristel, Edw. W.	Title Guaranty Bldg.	St. Louis
Forlow, Frank	112 N. Allen St.	Webb City
Fort, J. L.		Dexter
Frank, D. A.	Boatmen's Bank Bldg.	St. Louis
Franken, W. A.		Carrollton
Franklin, Nelson A.		Unionville
Frumberg, A. M.	New Bank of Commerce Bldg.	St. Louis
Fry, W. W., Jr.		Mexico
Gage, John B.	1100 Grand Ave. Temple	Kansas City
Gallant, C. Lew	810 Boatmen's Bank Bldg.	St. Louis
Gallivan, Thomas		New Madrid
Gamble, E. H.	Scarritt Bldg.	Kansas City
Gantt, E. S.		Mexico
Gardner, A. E. L.		Clayton
Gardner, W. A.		Farmington
Garvin, Wm. E.	Wainwright Bldg.	St. Louis
Geittman, E. J.	1200 Gloyd Bldg.	Kansas City
Gentry, North Todd		Columbia
Gentry, Wm. R.	Merchants-Laclede Bldg.	St. Louis
German, Chas. W.	906 Commerce Bldg.	Kansas City
Gilbert, Chas. E.	904 N. Washington St.	Nevada
Gilbert, Wm. R.	619 Third Nat'l Bank Bldg.	St. Louis
Gilbert, Wm. S.	502 Rialto Bldg.	Kansas City
Glahn, Ben L.		Palmyra
Glenn, Allen		Harrisonville
Godard, Porter B.	605 New York Life Bldg.	Kansas City

Goode, Richard L.	Washington Univ. Law School.	St. Louis
Goodman, Burr	302 Title Guaranty Bldg.	St. Louis
Goddrich, James E.	611 Commerce Bldg.	Kansas City
Goodson, Walter C.		Macon
Gorman, O. E.		Springfield
Gose, J. T.		Shelbina
Gossett, A. N.	Dwight Bldg.	Kansas City
Grant, Lee W.	Carleton Bldg.	St. Louis
Gray, Howard		Carthage
Gray, Laurence		Carthage
Green, Ernest A.	Third Nat'l Bank Bldg.	St. Louis
Green, James F.	Railway Exchange Bldg.	St. Louis
Green, John F.	Rialto Bldg.	St. Louis
Green, Leslie C.		Poplar Bluff
Greene, W. W.	Scarritt Bldg.	Kansas City
Greensfelder, J. B.		Clayton
Griffin, Everett Paul.	City Hall	St. Louis
Griffin, Gerald	Title Guaranty Bldg.	St. Louis
Griffin, W. E.	604 Grand Ave. Temple	Kansas City
Grossman, Emanuel M.	Rialto Bldg.	St. Louis
Grover, J. C.	709 Scarritt Bldg.	Kansas City
Guthrie, Joseph A.	531 Scarritt Bldg.	Kansas City
Hackler, T. J.		Lee's Summit
Hackney, Thos.	Lathrop Bldg.	Kansas City
Haeussler, Harry H.	Merchants-Laclede Bldg.	St. Louis
Haff, D. J.	906 Commerce Bldg.	Kansas City
Hagerman, Frank	1211 Commerce Bldg.	Kansas City
Hagerman, Lee W.	Rialto Bldg.	St. Louis
Haid, Arthur E.	Frisco Bldg.	St. Louis
Haid, Edward A.	Third Nat'l Bank Bldg.	St. Louis
Haid, Geo. F.	Third Nat'l Bank Bldg.	St. Louis
Haley, J. H.		Bowling Green
Halliburton, J. W.		Carthage
Hall, Claud D.	Central Nat'l Bank Bldg.	St. Louis
Hall, Fred S.	Central Nat'l Bank Bldg.	St. Louis
Hall, George		Trenton
Hall, Homer	Custom House.	St. Louis
Hall, W. P.	Gloyd Bldg.	Kansas City
Hallett, W. H.		Nevada
Hamilton, Henry A.	Federal Reserve Bank Bldg.	St. Louis
Hamlin, O. T.		Springfield
Hancock, W. Scott.	1837 Boatmen's Bank Bldg.	St. Louis
Harbor, E. M.	Federal Bldg.	Kansas City
Hardesty, B. C.		Cape Girardeau
Hardin, Charles B.	3901 Park Ave.	St. Louis
Hargus, J. C.	Rialto Bldg.	St. Louis
Hargus, Sam O.	332 Rialto Bldg.	Kansas City
Harkless, James H.	1000 Grand Ave. Temple Bldg.	Kansas City
Harlan, Thos. B.	1105 Missouri Trust Bldg.	St. Louis
Harris, Brown	715 Commerce Bldg.	Kansas City
Harris, David H.		Fulton
Harris, Frank G.		Columbia
Harris, J. D.		Carthage
Harris, Virgil M.	Mercantile Trust Co.	St. Louis
Hart, Charles K.		Brookfield
Harvey, J. G. L.	609 Rialto Bldg.	Kansas City
Harvey, Thos. B.	Municipal Courts Bldg.	St. Louis

Harzfeld, J. A.	521 New York Life Bldg.	Kansas City
Harvey, T. H.		Marshall
Hausman, Albert E.	Third Nat'l Bank Bldg.	St. Louis
Hawes, Harry B.	Third Nat'l Bank Bldg.	St. Louis
Hawes, James W.	704 Gloyd Bldg.	Kansas City
Hay, Charles M.	Commercial Bldg.	St. Louis
Hayden, M. U.	Times Bldg.	St. Louis
Haynes, T. N.		Harrisonville
Hayward, Francis M.	705 New York Life Bldg.	Kansas City
Hebbel, George H.	901½ Main Street	Trenton
Heidelberger, Wilhelm.	829 New York Life Bldg.	Kansas City
Heitman, N. F.	734 New York Life Bldg.	Kansas City
Henderson, Lam B.		Monticello
Hennings, Thos. C.	Court House	St. Louis
Henson, L. M.	105A Main St.	Poplar Bluff
Heyman, Lester I.	Central Nat'l Bank Bldg.	St. Louis
Higbee, Edward		Kirksville
Higgs, Thos. J.	931 Scarritt Bldg.	Kansas City
Hill, David W.		Poplar Bluff
Hill, O. S.	917 Commerce Bldg.	Kansas City
Hines, T. D.		Jackson
Hinton, E. W.	Univ. of Chicago Law School.	Chicago, Ill.
Histed, Clifford.	1000 Grand Ave. Temple Bldg.	Kansas City
Hitchcock, Geo. C.	Court House	St. Louis
Hobein, Frank A.	Wainwright Bldg.	St. Louis
Hocker, Lon O.	Third Nat'l Bank Bldg.	St. Louis
Hogsett, W. S.	1012 Grand Ave. Temple Bldg.	Kansas City
Holland, Robert A., Jr.	Central Nat'l Bank Bldg.	St. Louis
Holliday, John H.	Third Nat'l Bank Bldg.	St. Louis
Holliday, Joseph G.	906 LaSalle Bldg.	St. Louis
Holt, Wm. G.	Republic Bldg.	Kansas City
Holmes, Massey	Keith & Perry Bldg.	Kansas City
Homer, Wm. B.	Merchants-Laclede Bldg.	St. Louis
Hook, Inghram	Keith & Perry Bldg.	Kansas City
Hope, John A.	Bank of Commerce Bldg.	St. Louis
Hornsby, Joseph L.	Rialto Bldg.	St. Louis
Hostetter, J. D.		Bowling Green
Hoss, O. H.		Nevada
Houck, Giboney		Cape Girardeau
Hough, Warwick M.	Rialto Bldg.	St. Louis
Houts, Charles A.	Boatmen's Bank Bldg.	St. Louis
Houts, Hale.	901 Republic Bldg.	Kansas City
Howard, B. C.	Commerce Trust Co.	Kansas City
Howe, Jeptha D.	Bank of Commerce Bldg.	St. Louis
Howell, Chas. M.	1115 Commerce Bldg.	Kansas City
Howell, Daniel V.	921 Scarritt Bldg.	Kansas City
Howell, Shrader P.		Jefferson City
Hubbell, Platt		Trenton
Huck, Peter H.		Ste. Genevieve
Huckelberry, J. H.		Kirkwood
Hudson, James F.	Security Bldg.	St. Louis
Hudson, Manley O.		Columbia
Hudson, Fred S.	Ridge Arcade.	Kansas City
Hudson, O. B.		Grant City
Huff, Virgil V.		Marshall
Huffman, Edwin E.	Pierce Bldg.	St. Louis
Hughes, Ralph.		Liberty

Hukriede, T. W.		Warrenton
Hull, James H.		Platte City
Humphrey, Geo. N.		Kansas City
Hunter, J. W.		California
Hunter, S. Oak		Moberly
Hutchinson, Leslie B.		Vienna
Hutton, John G.	New York Life Bldg.	Kansas City
Ingraham, R. J.	Republic Bldg.	Kansas City
Irland, F. W.	Railway Exchange Bldg.	St. Louis
Irwin, Wm. C.		Jefferson City
James, Eldon R.		Columbia
James, Grover C.		Joplin
James, W. K.		St. Joseph
James, Wm. R.	816 Grand Ave. Temple Bldg.	Kansas City
Jamison, Dorsey A.	Pierce Bldg.	St. Louis
Jamison, Jos. W.	Wainwright Bldg.	St. Louis
January, M. T.		Nevada
Jeffries, Sam B.	Bank of Commerce Bldg.	St. Louis
Johnson, Charles P.	Navarre Bldg.	St. Louis
Johnson, J. D.	Bank of Commerce Bldg.	St. Louis
Johnson, James M.	Grand Ave. Temple Bldg.	Kansas City
Johnson, Waldo P.		Osceola
Johnson, W. T.	312 Keith & Perry Bldg.	Kansas City
Jones, Breckinridge	Mississippi Valley Trust Co.	St. Louis
Jones, Elliott H.	Scarritt Bldg.	Kansas City
Jones, Frank X.	Third Nat'l Bank Bldg.	St. Louis
Jones, James C.	Third Nat'l Bank Bldg.	St. Louis
Jones, James C., Jr.	Third Nat'l Bank Bldg.	St. Louis
Jones, Richard A.	Rialto Bldg.	St. Louis
Jones, S. J.		Carrollton
Jones, Wilbur B.	Carleton Bldg.	St. Louis
Jones, Wm. T.	Court House	St. Louis
Jourdan, Morton	Third Nat'l Bank Bldg.	St. Louis
Judson, Frederick N.	Rialto Bldg.	St. Louis
Kehde, Alfred	Bank of Commerce Bldg.	St. Louis
Kelley, Frank		Cape Girardeau
Kelso, A. W.		Grant City
Kelso, I. R.	Railway Exchange Bldg.	St. Louis
Kennard, F. M.	531 Scarritt Bldg.	Kansas City
Kennedy, D. E.		Sedalia
Kennish, John	402 Keith & Perry Bldg.	Kansas City
Kimmell, Karl		St. Louis
King, Clarence H.	220 N. Fourth St.	St. Louis
King, James E.	Third Nat'l Bank Bldg.	St. Louis
Kingsley, Geo., Jr.	Rialto Bldg.	Kansas City
Kinsey, Wm. M.	Court House	St. Louis
Kirby, Daniel N.	Security Bldg.	St. Louis
Kirschner, C. H.	1110 Commerce Bldg.	Kansas City
Kiskaddon, J. C.		Clayton
Knehans, O. A.	Custom House	St. Louis
Koerner, Kent K.		St. Louis
Kortjohn, Henry	Merchants-Laclede Bldg.	St. Louis
Kottwitz, H. C.		Bland
Krauthoff, Edwin A.	1015 Republic Bldg.	Kansas City
Ladd, Sanford B.	New York Life Bldg.	Kansas City
Lake, Edward	Third Nat'l Bank Bldg.	St. Louis
Lake, Rush C.	Commerce Bldg.	Kansas City

Lamar, Robert		Houston
Lamb, Fred		Salisbury
Lamb, Gilbert		Salisbury
Lamm, Henry		Sedalia
Lampkin, Walter L.	1104 Gloyd Bldg.	Kansas City
Landis, John C.		St. Joseph
Landon, Thad B.	Orear-Leslie Bldg.	Kansas City
Landrum, C. R.		Mt. Vernon
Langworthy, H. M.	Scarritt Bldg.	Kansas City
Langsdale, Cliff.	921 Scarritt Bldg.	Kansas City
Larimore, H. H.	617 Midland Bldg.	Kansas City
Lashly, J. M.	Central Nat'l Bank Bldg.	St. Louis
Lathrop, Gardner	Railway Exchange Bldg.	Chicago
Laughlin, L. A.	509 Republic Bldg.	Kansas City
Law, Wm. T.	811 Scarritt Bldg.	Kansas City
Lawler, Clement A.	411 Fidelity Trust Bldg.	Kansas City
Lawson, John D.		Columbia
Lawson, Martin E.		Liberty
Lay, James H.		Jefferson City
Lay, Wm. R.		Steelville
Leahy, John S.	Bank of Commerce Bldg.	St. Louis
Lebrecht, Hal R.	Produce Exchange Bldg.	Kansas City
Lee, Ilus M.	906 Republic Bldg.	Kansas City
Lee, John F.	Rialto Bldg.	St. Louis
Lehmann, Fred W.	Merchants-Laclede Bldg.	St. Louis
Lehmann, John S.	Merchants-Laclede Bldg.	St. Louis
Lehmann, Sears	Merchants-Laclede Bldg.	St. Louis
Leonard, Loyal L.	Rialto Bldg.	St. Louis
Leslie, C. R.	605 Scarritt Bldg.	Kansas City
Levi, A. L.	Third Nat'l Bank Bldg.	St. Louis
Lilly, Major J.		Moberly
Lindsay, James D.		Jefferson City
Linney, W. B.	Queen City Bank Bldg.	Springfield
Lionberger, Isaac	Security Bldg.	St. Louis
Lively, M. R.		Webb City
Lloyd, James T.	708 Woodward Bldg.	Washington, D. C.
Lockwood, Geo. R.	628 Rialto Bldg.	St. Louis
Loeb, Isidore		Columbia
Long, Breckinridge	State Dep't.	Washington, D. C.
Lorie, Jacob L.	606 American Bank Bldg.	Kansas City
Lovan, A. B.		Springfield
Lowe, Frank M.	1022 Scarritt Bldg.	Kansas City
Lowenhaupt, Abe	Third Nat'l Bank Bldg.	St. Louis
Lozier, Ralph F.		Carrollton
Lubke, Geo. W.	Title Guaranty Bldg.	St. Louis
Lubke, Geo. W., Jr.	Title Guaranty Bldg.	St. Louis
Lucas, John H.	1500 Grand Ave.	Kansas City
Lucas, Wm. C.	Keith & Perry Bldg.	Kansas City
Luther, J. E.		Kansas City
Lyon, A. Stanford	901 Scarritt Bldg.	Memphis
Lyon, Montague	Third Nat'l Bank Bldg.	St. Louis
Lyons, Leslie J.	1003 Republic Bldg.	Kansas City
Lyons, Martin	Lathrop Bldg.	Kansas City
McAllister, Frank W.		Jefferson City
McAntire, J. W.		Joplin
McBaine, J. P.		Columbia
McCammon, John P.	Woodruff Bldg.	Springfield

McCarty, John R.	Times Bldg.	St. Louis
McCawley, A. L.		Carthage
McClanahan, A. R.	332 Rialto Bldg.	Kansas City
McClarin, Wm. H.	Carleton Bldg.	St. Louis
McClintock, W. S.	1015 Republic Bldg.	Kansas City
McColl, Clark A.		Westboro
McCullen, Edward J.	Third Nat'l Bank Bldg.	St. Louis
McCullough, F. H.		Edina
McCune, Henry L.	731 Scarritt Bldg.	Kansas City
McDavid, Frank M.		Springfield
McDonald, Jesse	Third Nat'l Bank Bldg.	St. Louis
McElhinney, John W.		Clayton
McFarland, Bates H.	Bank of Commerce Bldg.	St. Louis
McIntyre, Jos. S.	Central Nat'l Bank Bldg.	St. Louis
McKay, John T.		Kennett
McLaran, R. L.	Merchants-Laclede Bldg.	St. Louis
McLeod, W. D.	Scarritt Bldg.	Kansas City
McNatt, Carr		Aurora
McNatt, John L.		Aurora
McPheeters, Sam B.	Central Nat'l Bank Bldg.	St. Louis
McPherson, I. V.		Aurora
McPherson, J. M.		Mount Vernon
McQuillin, Eugene	Boatmen's Bank Bldg.	St. Louis
McReynolds, Allen		Carthage
Macauley, Charles J.	Merchants-Laclede Bldg.	St. Louis
Madden, T. J.	806 Scarritt Bldg.	Kansas City
Mahan, Dulany		Hannibal
Mahan, Geo. A.		Hannibal
Major, Elliott W.	Federal Reserve Bank Bldg.	St. Louis
Major, Sam'l C.		Fayette
Mann, Edgar P.		Springfield
Mann, Frank C.		Springfield
Mansfield, A. H.	125 Railway Exchange Bldg.	St. Louis
Marbury, Benj. H.	Liberty St.	Farmington
Marks, Thos. R.	715 Commerce Bldg.	Kansas City
Maroney, A. C.	Central Nat'l Bank Bldg.	St. Louis
Martin, Ernest D.		Kansas City
Martin, Thos. W.		Lamar
Mason, Dallas T.	5567 Waterman Ave.	St. Louis
Mason, James H.		Springfield
May, Robert A.		Louisiana
Mayer, Charles H.		St. Joseph
Mayer, Louis	704 Railway Exchange Bldg.	St. Louis
Mayfield, W. C.		Lebanon
Mayhew, D. S.		Monett
Mead, Everett C.		Kansas City
Meriwether, H. M.	203 New England Bldg.	Kansas City
Merriam, E. G.	4315 Washington Ave.	St. Louis
Mersereau, Geo. J.	First Nat'l Bank Bldg.	Kansas City
Michaels, Wm. C.	906 Commerce Bldg.	Kansas City
Miller, Arthur	1200 Gloyd Bldg.	Kansas City
Miller, Charles M.	1127 Scarritt Bldg.	Kansas City
Miller, Edw. T.	Frisco Bldg.	St. Louis
Miller, Franklin	Pierce Bldg.	St. Louis
Miller, Victor J.	Bank of Commerce Bldg.	St. Louis
Mills, John C.		Kirksville
Minnis, James L.	Title Guaranty Bldg.	St. Louis

Mitchell, Sam A.	Mercantile Bank Bldg.	St. Louis
Mohr, Frank A.	Third Nat'l Bank Bldg.	St. Louis
Moloney, Robert E.	Bank of Commerce Bldg.	St. Louis
Monegan, J. E. (Mrs.)	6015 Berlin Ave.	St. Louis
Montgomery, Lee		Sedalia
Montgomery, Theo. L.		Kahoka
Mooneyham, R. A.		Carthage
Moore, Frank H.	120 West 11th St.	Kansas City
Moore, Geo. H.	Rialto Bldg.	St. Louis
Moore, H. L.		Excelsior Springs
Moore, Hunt C.	906 Republic Bldg.	Kansas City
Moore, John T.		Ozark
Moore, McCabe	319 Dwight Bldg.	Kansas City
Moore, Samuel W.	First Nat'l Bank Bldg.	Kansas City
Moore, W. R.	1125 Scarritt Bldg.	Kansas City
Morris, A. H.	920 Wainwright Bldg.	St. Louis
Morris, John T.		Carrollton
Morrison, Edwin R.	508 Scarritt Bldg.	Kansas City
Morrow, Thos. R.	First Nat'l Bank Bldg.	Kansas City
Morgan, William G.	408 Olive Street	St. Louis
Morton, Joseph		St. Joseph
Moseley, Arthur G.	New Bank of Commerce Bldg.	St. Louis
Mozley, N. A.		Bloomfield
Muench, Hugo	Title Guaranty Bldg.	St. Louis
Munger, O. L.		Piedmont
Murphy, Con, Jr.	410 Fidelity Trust Bldg.	Kansas City
Murray, Mathew P.	Liggett Bldg.	St. Louis
Murray, Robert M.	300 Elmhurst Bldg.	Kansas City
Nagel, Charles	Security Bldg.	St. Louis
Nall, Frank B.	Central Nat'l Bank Bldg.	St. Louis
Nardin, Wm. T.	Boatmen's Bank Bldg.	St. Louis
Neale, Ben M.		Greenfield
Neeper, F. W.	206A Center St.	Hannibal
Nelson, Earl F.		Jefferson City
Neun, Walter J. G.	Nat'l Bank of Commerce Bldg.	St. Louis
Neville, James T.		Springfield
New, Alexander	1200 Gloyd Bldg.	Kansas City
Newman, Charles F.		Kansas City
Newton, Cleveland A.	Security Bldg.	St. Louis
Nicholas, Robert M.	Rialto Bldg.	St. Louis
Noell, Charles P.	303 Pierce Bldg.	St. Louis
Noell, John V.		Perryville
Nolte, Julius R.		Clayton
North, Ed S.	1127 Scarritt Bldg.	Kansas City
Norton, George P.	1101 New York Life Bldg.	Kansas City
Nortoni, Albert D.	Third Nat'l Bank Bldg.	St. Louis
Nourse, James B.	New York Life Bldg.	Kansas City
Nugent, James E.	508 Scarritt Bldg.	Kansas City
O'Brien, Arthur A.	1013 Commerce Bldg.	Kansas City
O'Brien, M. T.		Maplewood
O'Donnell, Martin J.	1000 New York Life Bldg.	Kansas City
O'Halloran, Anthony A.	Third Nat'l Bank Bldg.	St. Louis
Oliver, Allen L.		Cape Girardeau
Oliver, Arthur L.	U. S. Custom House	St. Louis
Oliver, R. B.		Cape Girardeau
Oliver, R. B., Jr.		Cape Girardeau
O'Rear, John D.		Mexico

Orr, Cameron L.	604 Grand Ave. Temple	Kansas City
Orr, Isaac H.	St. Louis Union Trust Co.	St. Louis
Orr, W. J.	Woodruff Bldg.	Springfield
Ottofy, L. Frank	Laclede Bldg.	St. Louis
Orthwein, W. R.	Commercial Bldg.	St. Louis
Overall, John H.	Rialto Bldg.	St. Louis
Page, H. C.	Keith & Perry Bldg.	Kansas City
Palmer, Clarence S.	836 New York Life Bldg.	Kansas City
Park, Guy B.		Platte City
Parks, Peyton A.		Clinton
Patterson, Roscoe		Springfield
Patterson, Orin		Springfield
Patterson, Alex Z.		Jefferson City
Pattison, Everett W.	Rialto Bldg.	St. Louis
Paxton, J. G.	First Nat'l Bank Bldg.	Independence
Pearson, Eugene		Louisiana
Pearson, Ras		Louisiana
Pence, Charles R.	1117 Commerce Bldg.	Kansas City
Petherbridge, J. C.	921 Scarritt Bldg.	Kansas City
Pettingill, N. M.		Memphis
Phillips, Alroy S.	Pierce Bldg.	St. Louis
Phillips, Sam M.		Poplar Bluff
Piatt, Wm. H. H.	715 Commerce Bldg.	St. Louis
Pierce, Thos. M.	Union Station.	St. Louis
Pike, Vinton		St. Joseph
Pirkey, Earl M.	Merchants-Laclede Bldg.	St. Louis
Plaster, W. H.		Collins
Polk, Charles M.	Rialto Bldg.	St. Louis
Pollack, Phil	Roe Bldg.	St. Louis
Pope, H. C.	301 Massachusetts Bldg.	Kansas City
Porter, Pierre R.	1015 Grand Ave. Temple Bldg.	Kansas City
Potter, James A.		Aurora
Powell, Elmer N.	614 New York Life Bldg.	Kansas City
Powell, Walter A.	614 New York Life Bldg.	Kansas City
Powers, Charles A.	Central Nat'l Bank Bldg.	St. Louis
Priest, Geo. T.	New Bank of Commerce Bldg.	St. Louis
Priest, Henry S.	New Bank of Commerce Bldg.	St. Louis
Priest, W. Blodgett.	New Bank of Commerce Bldg.	St. Louis
Proctor, David	431 Scarritt Bldg.	Kansas City
Prosser, Paul P.		Fayette
Pufahl, Herman		Bolivar
Randolph, Kendall B.		St. Joseph
Rassieur, Leo S.		St. Louis
Rassieur, Theo.	Federal Reserve Bank Bldg.	St. Louis
Rector, Alf F.		Marshall
Reed, James A.	609 Rialto Bldg.	Kansas City
Reed, M. A.		St. Joseph
Reeder, P. E.	1200 Gloyd Bldg.	Kansas City
Reeves, Albert L.		Kansas City
Reeves, D. D.		Albany
Reinhardt, George	1206 Commerce Bldg.	Kansas City
Revelle, Charles G.		St. Louis
Reynolds, Geo. D.	Pierce Bldg.	St. Louis
Reynolds, Geo. V.	New Bank of Commerce Bldg.	St. Louis
Reynolds, Matt G.	Central Nat'l Bank Bldg.	St. Louis
Reynolds, Robert M.		Marshall
Reynolds, Thos. H.	First Nat'l Bank Bldg.	Kansas City

Rhodes, M. E.		Potosi
Rice, Leslie D.		Neosho
Rich, John A.		Slater
Rieger, J. C.	900 New York Life Bldg.	Kansas City
Riley, Henry C., Jr.		New Madrid
Riley, Henry C., Sr.		New Madrid
Ringolsky, I. J.	331 Scarritt Bldg.	Kansas City
Roach, Sid C.		Linn Creek
Robbins, Alex H.	420 Market Street	St. Louis
Robert, Douglas W.	1320 Fed. Reserve Bank Bldg.	St. Louis
Roberts, James L.	321 Scarritt Bldg.	Kansas City
Robertson, David		Mexico
Robertson, R. S.		Sedalia
Robertson, Wm. R.		Carthage
Robinson, Elijah	Commerce Bldg.	Kansas City
Robinson, Omar E.	1208 Commerce Bldg.	Kansas City
Rodgers, Hickman P.	1302 No. 415 Pine St.	St. Louis
Rodgers, R. D.		Mexico
Roehrig, Emil		Warrenton
Rogers, Stephen C.	Carleton Bldg.	St. Louis
Roney, Thomas J.		Webb City
Rosenberger, Emil P.		Montgomery City
Rosenberger, J. C.	1010 New York Life Bldg.	Kansas City
Roudebush, A. Holt.	Rialto Bldg.	St. Louis
Rozier, Welton H.	Pierce Bldg.	St. Louis
Rozzelle, F. F.	927 New York Life Bldg.	Kansas City
Rucker, B. H.		Rolla
Rucker, Roy W.		Keytesville
Russell, Joe J.	House of Representatives.	Washington, D. C.
Russell, W. C.		Charleston
Rutledge, Thos. G.	Central Nat'l Bank Bldg.	St. Louis
Ryan, O'Neill	Third Nat'l Bank Bldg.	St. Louis
Ryan, Thos. F.		St. Joseph
Sale, Moses N.	New Bank of Commerce Bldg.	St. Louis
Sanderson, Judson		Fulton
Saunders, Walter H.	Bank of Commerce Bldg.	St. Louis
Saxbury, W. M.		Queen City
Scarritt, E. L.	Scarritt Bldg.	Kansas City
Scarrit, W. C.	Scarritt Bldg.	Kansas City
Schelp, Walter Fred'k.	1010 Title Guaranty Bldg.	St. Louis
Schmook, John		Springfield
Schnurmacher, Benj.	Bank of Commerce Bldg.	St. Louis
Schofield, Madison B.		Hannibal
Schofield, F. L.		Hannibal
Scholer, Ernest A.	618 New York Life Bldg.	Kansas City
Scott, Rufe		Galena
Sea, John A.		Independence
Sears, Kenneth C.		Kansas City
Sebree, Frank P.	809 Scarritt Bldg.	Kansas City
Sebree, Geo. M.	Woodruff Bldg.	Springfield
Sebree, Sam B.	809 Scarritt Bldg.	Kansas City
Seddon, Alfred M.	1127 Scarritt Bldg.	Kansas City
Seddon, James A.	Central Nat'l Bank Bldg.	St. Louis
Seibert, Wilson W.	Bank of Commerce Bldg.	St. Louis
Selph, Colin M.	Post Office Bldg.	St. Louis
Settle, Frank		Platte City
Setzler, Edw. A.	1319 Commerce Bldg.	Kansas City

Shain, Hopkins B.		Sedalia
Shanklin, Arnold	U. S. Consul	City of Mexico
Shelton, Nat M.		Macon
Shepley, Arthur B.	Security Bldg.	St. Louis
Sheppard, Jesse C.		Poplar Bluff
Sheppard, C. G.		Caruthersville
Sheppard, R. M.		Joplin
Sher, Louis B.	Century Bldg.	St. Louis
Sherman, Adrian F.	Orear-Leslie Bldg.	Kansas City
Shields, Geo. H.	Title Guaranty Bldg.	St. Louis
Shuck, L. B.		Webb City
Shuck, W. R.		Webb City
Silvers, E. B.		Butler
Simrall, Denny	1119 Commerce Bldg.	Kansas City
Simrall, James S.	210 Leonard St.	Liberty
Skelley, S. E.	New York Life Bldg.	Jefferson City
Skinker, Thos. K.	Pierce Bldg.	St. Louis
Small, C. E.	New York Life Bldg.	Kansas City
Small, Harold R.	Pierce Bldg.	St. Louis
Smart, James C.	816 Grand Ave. Temple.	Kansas City
Smith, A. F.	906 Republic Bldg.	Kansas City
Smith, Alvin J.		Adrian
Smith, B. Atwood		Carrollton
Smith, Chester L.	15th and Grand Ave.	Kansas City
Smith, Hugh C.	402 Keith & Perry Bldg.	Kansas City
Smith, Luther Ely	Pierce Bldg.	St. Louis
Smith, T. J.		Butler
Snider, E. L.	909 Sharp Bldg.	Kansas City
Spalding, Elliott		St. Joseph
Sparrow, Samuel	908 Gloyd Bldg.	Kansas City
Spellman, Clarence I.	506 New York Life Bldg.	Kansas City
Spencer, A. E.	516 Frisco Bldg.	Joplin
Spencer, O. M.		St. Joseph
Spencer, R. L.	Corby-Forsee Bldg.	St. Joseph
Spencer, R. Perry	Municipal Courts Bldg.	St. Joseph
Spencer, Selden P.	Boatmen's Bank Bldg.	St. Louis
Spottswood, Wilbur F.	907 New York Life Bldg.	Kansas City
Spradling, A. M.		Cape Girardeau
Sprague, H. E.	Third Nat'l Bank Bldg.	St. Louis
Sprinkle, Thos. H.	Pierce Bldg.	St. Louis
Stacy, Joseph B.	Scarritt Bldg.	Kansas City
Stark, Charles B.	Third Nat'l Bank Bldg.	St. Louis
Stewart, A. P.	825 Frisco Bldg.	St. Louis
Stewart, Charles D.		Edina
Stewart, Joseph D.		Chillicothe
Stewart, Robt. F.		Webb City
Stocking, W. L.	567 Sheidley Bldg.	Kansas City
Stocks, S. D.		Mexico
Stone, Kimbrough	Federal Bldg.	Kansas City
Stone, Wm. J.		Jefferson City
Strother, Sam B.	908 Scarritt Bldg.	Kansas City
Sturdevant, W. L.	Central Nat'l Bank Bldg.	St. Louis
Sturgis, Samuel B.		Leeton
Suddath, J. W.		Warrensburg
Suddath, W. E.		Warrensburg
Sullivan, Frank H.	Third Nat'l Bank Bldg.	St. Louis
Swarts, S. L.	Third Nat'l Bank Bldg.	St. Louis

Tatlow, W. D.		Springfield
Taylor, Daniel C.	Boatmen's Bank Bldg.	St. Louis
Taylor, James A.	921 Scarritt Bldg.	Kansas City
Taylor, James S.	New York Life Bldg.	Kansas City
Taylor, John H.		Chillicothe
Taylor, Seneca N.	Pierce Bldg.	St. Louis
Ten Broeck, Gerritt H.	Mercantile Bldg.	St. Louis
Thomas, Spencer M.	Pierce Bldg.	St. Louis
Thompson, Frank A.	Rialto Bldg.	St. Louis
Thompson, Guy A.	Third Nat'l Bank Bldg.	St. Louis
Thompson, Wm. B.	Merchants-Laclede Bldg.	St. Louis
Thomson, Roy B.	531 Scarritt Bldg.	Kansas City
Thorpe, Geo. Y.		Kansas City
Thurmond, W. R.	803 R. A. Long Bldg.	Kansas City
Tillman, J. B.		Carthage
Timmonds, H. W.		Lamar
Titus, Frank	901 New York Life Bldg.	Kansas City
Todd, Joseph B.		Springfield
Trogden, J. E.	1022 Scarritt Bldg.	Kansas City
Troll, Harry	Central Nat'l Bank Bldg.	St. Louis
Turpin, Rees	934 New York Life Bldg.	Kansas City
Van Valkenburg, A. S.	Federal Bldg.	Kansas City
Vernon, J. W.	806 Grand Ave.	Kansas City
Vierling, Frederick	Mississippi Valley Trust Co.	St. Louis
Vineyard, J. J.	927 New York Life Bldg.	Kansas City
Wagner, Hugh K.	Fullerton Bldg.	St. Louis
Wagner, Thos. H.	Pierce Bldg.	St. Louis
Walker, A. W.		Fayette
Walker, George P.	626½ Main Street	Joplin
Walker, Lee		Columbia
Wallace, Henry C.		Lexington
Wallace, Wm. H.	1014 New York Life Bldg.	Kansas City
Waller, Alexander H.		Moberly
Walsh, Edw. P.	3901 Park Ave.	St. Louis
Walther, Lambert E.	Title Guaranty Bldg.	St. Louis
Waltner, W. R.	Ridge Arcade Bldg.	Kansas City
Walsh, Frank P.	Commerce Bldg.	Kansas City
Wammack, Ralph		Bloomfield
Wanamaker, Geo. W.		Bethany
Ward, R. E.		Liberty
Ward, Robert L.		Caruthersville
Watkins, O. W.		St. Joseph
Watkins, W. W.		St. Joseph
Watson, Drake		New London
Watson, I. N.	1100 Grand Ave. Temple	Kansas City
Watson, Raymond E.	1100 Grand Ave. Temple	Kansas City
Welborn, A. T.		Bloomfield
Weinbrenner, J. R.	610 Wainwright Bldg.	St. Louis
Wendorf, John D.	809 Scarritt Bldg.	Kansas City
Werner, Percy	Rialto Bldg.	St. Louis
West, Samuel H.	Railway Exchange Bldg.	St. Louis
Wheless, Joseph	Carleton Bldg.	St. Louis
White, Benj. L.		Marceline
White, Edw. J.	Railway Exchange Bldg.	St. Louis
White J. T.	Landers Bldg.	Springfield
White, Thos. W.	Third Nat'l Bank Bldg.	St. Louis
Whitecotton, J. H.		Moberly

Whiteside, John A.	Hiller Bldg.	Kahoka
Whitsitt, Andrew A.		Harrisonville
Whybark, Moses		Cape Girardeau
Wieman, Herman F.	704 New York Life Bldg.	Kansas City
Wilfley, X. P.	Boatmen's Bank Bldg.	St. Louis
Williams, B. R.		Macon
Williams, Charles B.	Third Nat'l Bank Bldg.	St. Louis
Williams, Charles P.	Security Bldg.	St. Louis
Williams, Fred L.		Jefferson City
Williams, Geo. H.	Pierce Bldg.	St. Louis
Williams, Isaac R.		Savannah
Williams, James C.	New York Life Bldg.	Kansas City
Williams, John M.		California
Williams, Roy D.		Boonville
Williams, Tyrrell	Washington University	St. Louis
Williamson, John I.	818 Scarritt Bldg.	Kansas City
Wilson, F. M.	U. S. Dist. Atty.	Kansas City
Wilson, John E.	721 Commerce Bldg.	Kansas City
Windsor, John H.		Boonville
Winger, M. H.	1200 Gloyd Bldg.	Kansas City
Witten, T. A.	1820 Commerce Bldg.	Kansas City
Woerner, Wm. F.	Times Bldg.	St. Louis
Wood, Ben A.	Rialto Bldg.	St. Louis
Wood, Fred H.	165 Broadway	New York City
Wood, John M.	802 Merchants-Laclede Bldg.	St. Louis
Wood, W. W.		Humansville
Woodruff, W. F.	306 Keith & Perry Bldg.	Kansas City
Woodward, W. H.		St. Louis
Woolfolk, Edgar B.		Troy
Wylder, L. Newton.	508 Scarritt Bldg.	Kansas City
Wyrick, Taylor B.	Central Nat'l Bank Bldg.	St. Louis
Wright, Charles J.	Landers Bldg.	Springfield
Yates, Ed E.	609 Rialto Bldg.	Kansas City
Yount, Garry H.		Van Buren
Zimmerman, Orville		Kennett
Zimmermann, T. F. W.	South Side Bank	St. Louis
Zumbalen, Jos. H.	Washington University	St. Louis
Zumbrunn, W. F.	1015 Gloyd Bldg.	Kansas City
Zwick, G. L.	Donnell Court	St. Joseph